

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

October 26, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-2001-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

JIMMY A. CARTER,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Rock County:
J. RICHARD LONG, Judge. *Affirmed.*

Before Eich, C.J., Dykman and Sundby, JJ.

PER CURIAM. Jimmy Carter appeals from a judgment on a felony conviction. On postconviction motion, he successfully argued that his original presentence investigation report contained an inaccurate psychological evaluation. At resentencing, the trial court refused to consider favorable information about Carter's conduct and circumstances since the original sentencing. Carter received the identical sentence as before, resulting in this

appeal. He contends that on resentencing the trial court should have considered his newly developed information. We disagree and therefore affirm.

In *State v. Solles*, 169 Wis.2d 566, 572, 485 N.W.2d 457, 460 (Ct. App. 1992), we held that the resentencing court must take into account only the circumstances existing at the time of the original sentencing. To reverse here, we must conclude that we have the authority to overrule *Solles*, and that *Solles* was wrongly decided. We need not reach the first question because we believe that *Solles* was correctly decided. We adopt the analysis presented in *Solles* and affirm on that basis.

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.