



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

September 23, 2013

To:

Hon. William E. Hanrahan
Circuit Court Judge
215 South Hamilton, Br. 7, Rm. 4103
Madison, WI 53703

Carlo Esqueda
Clerk of Circuit Court
Room 1000
215 South Hamilton
Madison, WI 53703

Rebecca Rapp St. John
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Michelle L. Viste
Asst. District Attorney
Rm. 3000
215 South Hamilton
Madison, WI 53703

Gregory M. Weber
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Gecobea M. Leach 500679
Fox Lake Corr. Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

You are hereby notified that the Court has entered the following opinion and order:

2012AP508-CR	State of Wisconsin v. Gecobea M. Leach (L.C. # 2005CM3433)
2012AP509-CR	State of Wisconsin v. Gecobea M. Leach (L.C. # 2006CF265)
2012AP510-CR	State of Wisconsin v. Gecobea M. Leach (L.C. # 2006CF665)

Before Lundsten, Higginbotham and Kloppenburg, JJ.

Gecobea Leach appeals an order that denied his motion to modify the maximum sentences imposed in three jointly handled cases following the revocation of his probation. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Leach raises two issues on appeal: (1) whether the legislative repeal of the early release program by 2011 Wis. Act 38 constituted a new sentencing factor; and (2) whether the circuit court imposed unduly harsh sentences based upon its interpretation of a comment Leach had made as being racist. Neither claim has any merit.

First, as the State points out, there are multiple cases holding that changes in sentencing laws do not satisfy the test for a new sentencing factor. See *State v. Trujillo*, 2005 WI 45, ¶25, 279 Wis. 2d 712, 694 N.W.2d 933, *abrogated on other grounds by State v. Harbor*, 2011 WI 28, ¶47 n.11, 333 Wis. 2d 53, 797 N.W.2d 828; *State v. Hegwood*, 113 Wis. 2d 544, 547, 335 N.W.2d 399 (1983); *State v. Torres*, 2003 WI App 199, ¶7, 267 Wis. 2d 213, 670 N.W.2d 400. We see nothing here that would distinguish the logic of those cases. Leach had no guarantee that he would achieve early release at the time that he was sentenced; therefore the possibility of such release was not highly relevant to his sentences and does not constitute a new factor.

Second, Leach argues that the circuit court misconstrued his reference to one of his victims as a “white bitch” as being racist, when Leach came from a culture that used the term bitch to refer to all women. As a result, Leach believes that the circuit court imposed sentences that were unduly harsh. We note that it was well within the circuit court’s discretion to draw inferences about Leach’s character from his words as well as his actions. In any event, even if Leach’s comment could be taken as a mere colloquial expression and did not reflect an actual racist attitude, our review of the sentencing transcript does not persuade us that the circuit court’s opinion that Leach was racist was the motivating factor behind its decision to impose maximum sentences.

Each of the three cases for which Leach was being sentenced included one or more count involving violence against a woman. In 2005CM3433, Leach struck a woman in the mouth. In 2006CF265, Leach beat his pregnant girlfriend by slapping her across the face, repeatedly kicking her in the stomach, striking her on the head with a space heater, and throwing her to the floor by her hair. In 2006CF665, Leach helped a friend beat the friend's pregnant girlfriend by slapping her across the face, picking her up by the neck and throwing her in a closet, calling her a dope whore, repeatedly kicking her in the chest while telling her that they were going to kill her and "stuff [her] white ass in the trunk," hitting her repeatedly in the face with a shoe, and trying to block her from escaping as she ran naked from the apartment to seek help. In addition, one of the incidents leading to the revocation of Leach's probation involved Leach choking his girlfriend.

The circuit court explicitly stated at the sentencing hearing that the most important factor it considered was that Leach had "chosen vulnerable females to victimize" and had done so "in a terribly brutal fashion," requiring punishment. The court further noted that the offenses were part of a "long-time pattern of conduct" showing Leach to be "an extremely dangerous, violent person" who did not "deserve to be amongst society" and needed to be "locked up to protect everyone else." The court's discussion plainly shows that its primary reason for imposing the maximum sentences was the number and degree of violent episodes in Leach's past, and that the comment about Leach having a racist attitude was merely a secondary consideration, along with Leach's "abysmal" employment record, failure to support his children, and insubordination on probation.

Given the court’s emphasis on the brutality of Leach’s conduct in the charged offenses, we conclude that the sentences imposed were not unduly harsh. *State v. Grindemann*, 2002 WI App 106, ¶¶31-32, 255 Wis. 2d 632, 648 N.W.2d 507 (a sentence will not be deemed unduly harsh unless it is “so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances”) (quoted source omitted).

IT IS ORDERED that the order denying sentence modification is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals