



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 II/IV

June 24, 2015

To:

Hon. Wilbur W. Warren III
Circuit Court Judge
Kenosha County Courthouse
912 56th Street
Kenosha, WI 53140

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
912 56th Street
Kenosha, WI 53140

John Richard Breffeilh
Assistant State Public Defender
735 N. Water St., Ste. 912
Milwaukee, WI 53202-4105

Christopher G. Wren
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Robert D. Zapf
District Attorney
Molinaro Bldg
912 56th Street
Kenosha, WI 53140-3747

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

2014AP1716-CR State of Wisconsin v. Lamont L. Travis (L.C. # 2009CF417)

Before Blanchard, P.J., Lundsten, and Sherman, JJ.

Lamont Travis appeals a judgment of conviction and an order denying his postconviction motion. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We affirm.

Travis argues that the court resentenced him based on inaccurate information because it arguably relied in part on an earlier presentence investigation (PSI) report recommendation that

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

may have been based partly on a mistaken belief that there was a five-year mandatory minimum for the offense.

We do not regard this argument as an assertion that Travis was sentenced based on inaccurate information. Travis acknowledges that the resentencing court understood the correct factual information about the mandatory minimum, namely, that there was not one. All that remains after that is the PSI report *recommendation*. A recommendation is not information, because it is not a fact, and thus a recommendation cannot be factually incorrect.

It is illogical to assume, as Travis appears to, that the resentencing court both understood that there is no mandatory minimum and, at the same time, inexplicably put that knowledge aside when considering the PSI report. The court surely understood that the recommendation may have been influenced by the author's erroneous belief about a mandatory minimum, and it is illogical to assume otherwise.

IT IS ORDERED that the judgment and order appealed are summarily affirmed under WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals