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**DISTRICT IV**

December 4, 2015

To:

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

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2014AP1846-CR	State of Wisconsin v. Wayne Dale Winchel (L.C. # 2013CF142)
2014AP1847-CR	State of Wisconsin v. Wayne Dale Winchel (L.C. # 2013CF230)

Before Kloppenburg, P.J., Higginbotham and Sherman, JJ.

Wayne Winchel appeals judgments of conviction and an order denying his motion for postconviction relief. Based upon our review of the briefs and record, we conclude at conference that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).<sup>1</sup> We affirm.

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

Winchel argues that he should be resentenced. Winchel was convicted of strangulation and suffocation, and felony bail jumping. These were both Class H felonies, but the parties appear to agree that, with enhancers, Winchel was facing a potential ten-year sentence on each count. The circuit court imposed concurrent sentences on each count of three years of initial confinement and three years of extended supervision.

Winchel argues that the sentences were excessive and unduly harsh for several reasons. First, he argues that the circuit court improperly ignored the victim's request that Winchel not serve prison time. This argument fails for multiple reasons. The court is not obligated to accept either the victim's version of the facts or the victim's sentencing request, and does not erroneously exercise its discretion simply by imposing a longer sentence than the victim wants. Furthermore, while the person Winchel refers to as "the victim" was clearly the victim of the strangulation and suffocation count, Winchel's crime of felony bail jumping was a crime against the broader society and the criminal justice system, for whom the victim did not speak.

Winchel argues that the sentences violate the judgment of reasonable people because they so far exceed the recommendation for probation to which the parties agreed, and which the victim and presentence report recommended. Winchel cites no legal authority holding that the recommendations of these actors are the sole measure for what reasonable people would think. We conclude that the sentences do not violate the judgment of reasonable people.

Winchel argues that the sentences are disproportionate to the offense. He again relies in part on the sentence recommendations of others involved in the case to demonstrate this. We do not regard the sentences as disproportionate to the two offenses committed, especially when he received only six of a potential twenty years.

IT IS ORDERED that the judgments and order are summarily affirmed under Wis. STAT.  
RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*