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

February 25, 2020

To:

Hon. William E. Hanrahan
Circuit Court Judge
Dane County Courthouse
215 S. Hamilton St., Rm. 4103
Madison, WI 53703

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
215 S. Hamilton St., Rm. 1000
Madison, WI 53703

Judy Schwaemle
Assistant District Attorney
215 S. Hamilton St., Rm. 3000
Madison, WI 53703

Sara Lynn Shaeffer
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Michael M. Reveles 498189
Jackson Correctional Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

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

2018AP1881-CR	State of Wisconsin v. Michael M. Reveles (L.C. # 2005CF703)
2018AP1882-CR	State of Wisconsin v. Michael M. Reveles (L.C. # 2005CF839)
2018AP1883-CR	State of Wisconsin v. Michael M. Reveles (L.C. # 2005CF1152)

Before Blanchard, Kloppenburg, and Graham, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. Rule 809.23(3).

Michael Reveles, pro se, appeals a circuit court order denying sentence modification. Reveles argues that the circuit court erred by construing Reveles' letter addressed to the Veterans Treatment Court as a motion for sentence modification. He contends that the letter sought

participation in the Veterans Treatment Court rather than sentence modification. He therefore seeks to vacate the order denying sentence modification. Alternatively, Reveles seeks a hearing on the motion. 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 (2017-18).[1] We summarily affirm.

In 2005, Reveles was convicted of six counts of second-degree sexual assault of a patient in an inpatient health care facility by an employee of the facility. The court sentenced Reveles to a total of thirty-two years of initial confinement and sixteen years of extended supervision. Reveles appealed, and this court affirmed. ***State v. Reveles***, Nos. 2008AP364-CR, 2008AP365-CR, and 2008AP366-CR, unpublished slip op. (WI App Jan. 29, 2009). In 2009, Reveles filed a motion for postconviction relief under WIS. STAT. § 974.06. The circuit court denied the motion, and this court affirmed on appeal. ***State v. Reveles***, Nos. 2010AP515, 2010AP516, and 2010AP517, unpublished op. and order (WI App Feb. 25, 2011).

In 2018, Reveles filed the document underlying these appeals.[2] The document was mailed to the Dane County Circuit Court and is addressed to "Dane County Veterans Treatment Court

---

[1] All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

[2] We note that the State utilizes a screen shot of the document Reveles filed in the circuit court in the text of its respondent's brief. We appreciate effective uses of word processing technology, and we do not discourage parties from reproducing images, maps, photos, and other non-textual items because these items can be helpful to our understanding of certain issues. However, when a party uses screen shots to reproduce textual items, such as motions, that party must manually count and include the words reproduced in its word count because a commercial word processor will not count those words. *See* WIS. STAT. RULE 809.19(8)(d) ("For purposes of the certification and length requirements of this subsection, counsel may use the word count produced by a commercial word processor available to the general public."). It does not appear that the State's brief exceeded the word count because of the screen shot in this case; however,

Representative." It states that it is intended as Reveles' "first step in bringing forth a motion for 'sentence modification.'" It states that Reveles' sentences were imposed consecutively and that Reveles would like them to run concurrently. It also states that Reveles' "new factor concerns my PSI [presentence investigation report] and has military service implications that have not been fully appreciated in sentencing." Finally, it states: "If there is a legal assistant that could be assigned to help me formalize my legal endeavor, I would appreciate the Judge Berz to assign one."[3] The circuit court, Judge William Hanrahan presiding, entered an order denying sentence modification. The court explained that Reveles had not provided grounds for sentence modification and that the court does not have a legal assistant available to assist litigants.

Reveles argues that the circuit court erred by construing Reveles' letter to the Veterans Treatment Court as a motion for sentence modification. Reveles argues that his letter sought a determination of whether he could be assigned to Veterans Treatment Court, not sentence modification. He contends that Judge Hanrahan committed an abuse of process by construing the letter as a sentence modification motion. *See* ***Brownsell v. Klawitter***, 102 Wis. 2d 108, 115, 306 N.W.2d 41 (1981) (elements of abuse of process are "'a willful act in the use of process not proper in the regular conduct of the proceedings' and 'an ulterior motive'" (quoted source omitted)). Reveles contends that Judge Hanrahan construed Reveles' letter as a sentence modification motion with the intent to bar Reveles from seeking sentence modification in the future.

---

we caution parties to be mindful that failing to count all words in a screen shot risks running afoul of appellate brief word count requirements. *See* RULE 809.19(8)(c) and (d).

[3] In his brief, Reveles indicates that the Wisconsin Courts website states that Judge Ellen Berz is the presiding judge in the Dane County Veterans Treatment Court.

We conclude that the circuit court properly construed Reveles' letter as a motion for sentence modification. We look to the substance of the document to determine its proper construction, rather than to Reveles' stated intent. *See* ***bin-Rilla v. Israel***, 113 Wis. 2d 514, 521, 335 N.W.2d 384 (1983) (courts liberally construe pro se pleadings according to their substance and despite label given by defendant); ***Buckley v. Park Bldg. Corp.***, 27 Wis. 2d 425, 431, 134 N.W.2d 666 (1965) ("[T]he nature of the motion … must be determined from its substance."). Reveles' letter requested sentence modification by stating it was Reveles' "first step in bringing forth a motion for 'sentence modification'" and that Reveles was seeking to have his consecutive sentences modified to concurrent sentences. The document also stated that Reveles' "new factor" concerned his PSI and military service. Thus, regardless of Reveles' intent in filing the document, Reveles sufficiently raised a request for sentence modification such that the document was properly construed as a motion for sentence modification.[4] We therefore reject Reveles' argument that the circuit court erred by construing the letter as a motion for sentence modification.[5]

Reveles also argues that if this court concludes that Reveles' letter was properly construed as a sentence modification motion, then Reveles is entitled to a motion hearing. He contends that evidence that he was prescribed medication that rendered him involuntarily intoxicated is a new

---

[4] Reveles states that information on the Wisconsin Courts website indicates that the Dane County Veterans Treatment Court is available to postdisposition participants, who may be able to participate in Veterans Treatment Court as part of their probationary supervision. However, it does not follow that Reveles' letter to the Dane County Circuit Court was not properly construed as a motion for sentence modification.

[5] We therefore do not reach whether Reveles has properly asserted an abuse of process claim in this action. *See* ***State v. Blalock***, 150 Wis. 2d 688, 703, 442 N.W.2d 514 (Ct. App. 1989) ("[C]ases should be decided on the narrowest possible ground.").

factor warranting sentence modification.[6] *See* ***State v. Harbor***, 2011 WI 28, ¶40, 333 Wis. 2d 53, 797 N.W.2d 828 (new factor for purposes of sentence modification is "'a fact or set of facts highly relevant to the imposition of sentence, but not known to the trial judge at the time of original sentencing, either because it was not then in existence or because ... it was unknowingly overlooked by all of the parties'" (quoted source omitted)). We disagree. Reveles' motion asserts in conclusory fashion that a new factor exists based on his PSI and his military service. Reveles' conclusory allegations that a new factor exists are insufficient to require a motion hearing. *See* ***id.***; *see also* ***State v. Allen***, 2004 WI 106, ¶23, 274 Wis. 2d 568, 682 N.W.2d 433 (for a motion to be sufficient to entitle defendant to a hearing, the motion must set forth sufficient material facts for the court to meaningfully assess the claim). Because Reveles' motion set forth only conclusory allegations, the circuit court did not err by denying the motion without a hearing.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals

[6] Reveles also cites ***State v. Travis***, 2013 WI 38, ¶48, 347 Wis. 2d 142, 832 N.W.2d 491, for the proposition that a defendant is entitled to be sentenced based on accurate information. However, Reveles does not develop an argument that he was sentenced based on inaccurate information, nor does he assert that he raised that argument in the circuit court. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App 1992) (this court does not consider undeveloped arguments); *See* ***State v. Van Camp***, 213 Wis. 2d 131, 144, 569 N.W.2d 577 (1997) (issue must be raised in the circuit court to be preserved for appeal). We therefore do not consider that argument further.

Additionally, Reveles asserts that his trial counsel was ineffective by failing to develop an involuntary intoxication defense and that his sentence was unconstitutional. Again, these arguments were not raised below, and will not be considered for the first time on appeal. *See* ***id.*** at 144.