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DISTRICT IV

March 25, 2021

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

2019AP2168-CR

State of Wisconsin v. Che C. Clark (L.C. # 2000CF142B)

Before Fitzpatrick, P.J., Blanchard, and Kloppenburg, 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).

Che C. Clark appeals a circuit court order that denied Clark's petition to expunge her 2002 burglary conviction. Clark argues that: (1) the circuit court failed to provide a valid reason for denying the petition to expunge; (2) Clark was denied her right to a fair trial and was improperly tried as an adult for crimes she committed at age seventeen; and (3) the circuit court erroneously exercised its discretion at sentencing. 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 (2019-20).¹ We summarily affirm.

In November 2000, Clark was charged with conspiracy to commit reckless injury, criminal damage to property, and burglary. After a jury trial, Clark was convicted of conspiracy to commit reckless injury and burglary. Clark appealed, challenging her conviction for conspiracy to commit reckless injury, and this court reversed that conviction.

In October 2019, Clark petitioned to expunge her burglary conviction. The circuit court denied the petition on grounds that, at the time of sentencing, the court did not authorize expungement, and also that Clark's conviction for burglary was not eligible for expungement.

Under WIS. STAT. § 973.015(1m)(a)1., if certain criteria are met, “the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence.” The only time the circuit court may authorize expungement of a conviction is at the time of the original sentencing. *State v. Arberry*, 2018 WI 7, ¶23, 379 Wis. 2d 254, 905 N.W.2d 832 (“[A] defendant may not seek expunction after sentence is imposed because both the language of ... § 973.015 and [prior case law] require that the determination regarding expunction be made at the sentencing hearing.”). We independently interpret the expungement statute and apply it to the facts of a case. *See State v. Ozuna*, 2017 WI 64, ¶9, 376 Wis. 2d 1, 898 N.W.2d 20.

Clark argues that the circuit court failed to provide a valid reason to deny her petition to expunge her burglary conviction. She argues that her burglary conviction for a crime she

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

committed at seventeen years old is having a disproportionate effect on her life many years later, despite her successful completion of supervision and positive achievements in the intervening years. She also contends that she was denied the right to a fair trial, that she was improperly tried as an adult, and that the court erroneously exercised its discretion by imposing a sentence that was unfair compared to the sentences of her co-defendants. Clark requests, as relief, that the circuit court convert her burglary conviction into a juvenile record.²

We conclude that Clark has not established that the circuit court erred by denying the petition to expunge. First, we disagree with Clark's contention that the circuit court failed to provide a valid reason for denying the petition. Contrary to Clark's assertion, the court explained that it denied the petition to expunge because, at the time of sentencing, the court did not authorize expungement of the conviction. The court also explained that Clark's burglary conviction was not eligible for expunction. We conclude that the circuit court properly denied the petition to expunge for the reasons set forth in its decision. *See Arberry*, 379 Wis. 2d 254, ¶23 (court's determination as to expunction must be made at time of sentencing); WIS. STAT. § 973.015(1m)(a)1. (court may order expunction if certain criteria are met, including that crime of conviction is one "for which the maximum period of imprisonment is 6 years or less"); *see also* WIS. STAT. §§ 943.10(1)(a) and 939.50(3)(c) (1999-2000) (at time of offense, burglary was a class C felony punishable by up to fifteen years of imprisonment). Second, none of Clark's arguments on appeal provide any reason for this court to disturb the circuit court's proper determination that there was no legal basis to expunge Clark's burglary conviction.

² We address only Clark's arguments related to her burglary conviction in this case. We do not address Clark's arguments as to convictions in other cases because they are not within the scope of this appeal.

Finally, we reject Clark’s argument that the circuit court should have converted the burglary conviction to a juvenile record. Clark did not make that request to the circuit court, and it is therefore not properly before us. See *State Farm Mut. Auto. Ins. Co. v. Hunt*, 2014 WI App 115, ¶32, 358 Wis. 2d 379, 856 N.W.2d 633 (“Arguments raised for the first time on appeal are generally deemed forfeited.” (quoted source omitted)). Moreover, Clark does not provide any legal authority that would support such a request. We therefore reject this argument as insufficiently developed. See *Wisconsin Conf. Bd. of Trs. of the United Methodist Church, Inc. v. Culver*, 2001 WI 55, ¶38, 243 Wis. 2d 394, 627 N.W.2d 469 (stating that we do not address arguments that are conclusory and insufficiently developed).

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 will not be published.

Sheila T. Reiff
Clerk of Court of Appeals