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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  
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**DISTRICT III**

April 18, 2023

To:

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Circuit Court Judge  
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Sonya Bice  
Electronic Notice

Susan Schaffer  
Clerk of Circuit Court  
Eau Claire County Courthouse  
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Andrew Hinkel  
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You are hereby notified that the Court has entered the following opinion and order:

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2021AP1699-CR                      State of Wisconsin v. Tyler R. Bedell (L. C. No. 2019CF1018)

Before Stark, P.J., Hruz and Gill, 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).**

Tyler Bedell appeals from a judgment of conviction and the denial of his postconviction motion for sentence modification. 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 (2021-22). We affirm.

Bedell pled no contest to an amended felony charge of physical abuse of a child recklessly causing great bodily harm. The victim of the offense was Bedell's six-month-old daughter. At the sentencing hearing, the circuit court imposed a ten-year sentence, consisting of five years' initial confinement, followed by five years' extended supervision. In doing so, the court stated its sentence was based upon "the nature of the offense, protecting the public, specifically this child,

and punishment.” Bedell was ordered to have “absolutely no contact with the victim or the victim’s family” during his extended supervision.

Bedell filed a postconviction motion seeking to modify the condition that he have no contact with the victim. Bedell’s motion attached a therapist’s five-page memorandum that summarized research concerning the benefits of continued contact between incarcerated persons and their children. The circuit court denied the motion, stating, “I think for a lot of reasons the mother and the children deserve to have a period of peace, and I’m going to not change my order at this point.” Bedell now appeals.

We assume without deciding that the therapist’s memorandum constituted a new factor for purposes of sentence modification. See *State v. Harbor*, 2011 WI 28, ¶40, 333 Wis. 2d 53, 797 N.W.2d 828. The question thus becomes whether the circuit court properly exercised its discretion in determining that the new factor did not justify a modification of Bedell’s sentence. See *id.*, ¶37.

Bedell argues that the circuit court’s briefly stated comments at the postconviction hearing are insufficient to constitute a valid exercise of discretion. He contends that the court’s “one-line claim” that there were “a lot of reasons” does not constitute a process of reasoning. However, we are obliged to affirm the court’s decision “if from the facts of record it is sustainable as a proper discretionary act.” See *McCleary v. State*, 49 Wis. 2d 263, 282, 182 N.W.2d 512 (1971).

The basis for the circuit court’s exercise of discretion in denying Bedell’s motion and the court’s concern for the need to protect the victim from Bedell is abundantly clear from this record. The facts include Bedell’s plea-based conviction for the severe physical injuries he inflicted on an infant entrusted to his care; the mother’s request at sentencing “to protect me and my children” from Bedell; the court’s conclusion at sentencing that Bedell had “quite the opposite” of good

character, and that “[t]here’s nothing good” that would result from contact during the course of his supervision; and the mother’s continued strong opposition at the postconviction hearing to any sort of contact.

Further, Bedell’s reliance upon the therapist’s memorandum in support of his motion to modify his sentence is misplaced. The memorandum was generic, merely concluding that studies “generally” show that contact between minor children and their incarcerated parent is largely beneficial to both. More importantly, the memorandum contained scant information on whether—and under what circumstances—it is beneficial for victims of violent child abuse to be subjected to contact with the parent who harmed them. Indeed, Bedell’s counsel acknowledged that the memorandum did not cite any studies about a child having contact with a parent who was convicted of a crime against that child “because we couldn’t find any.” The memorandum also failed to address any questions about such contact in this particular case.

Bedell argues that we need not search the record to find reasons the circuit court may have denied his motion because to do so would merely be an exercise in speculation. We are not persuaded. Even if we consider the therapist’s report to be a new factor, our independent review of the record shows that the court properly exercised its discretion in finding that new factor did not justify sentence modification.

Therefore,

IT IS ORDERED that the judgment and order are summarily affirmed. WIS. STAT. RULE 809.21 (2021-22).

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*