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DISTRICT II

October 20, 2021

To:

Hon. Mark Rohrer
Circuit Court Judge
Electronic Notice

Martha K. Askins
Electronic Notice

Hon. Patrick L. Willis
Circuit Court Judge
Electronic Notice

Jacalyn C. LaBre
Electronic Notice

Lynn Zigmunt
Clerk of Circuit Court
Manitowoc County
Electronic Notice

Anne Christenson Murphy
Electronic Notice

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

2017AP1299

State of Wisconsin v. Jason Albert Halda (L.C. #1998CF364)

Before Gundrum, P.J., Neubauer and Reilly, 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).

Jason Albert Halda appeals from an order denying his postconviction motion for resentencing. He contends that his sentence is unconstitutional. 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 affirm.

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

In 1999, Halda was convicted following a jury trial of first-degree intentional homicide while using a dangerous weapon, as a party to a crime. He was accused of fatally shooting a police officer while attempting to avoid apprehension. At the time of the offense, Halda was seventeen years old. The circuit court sentenced him to life imprisonment without the possibility of parole.

In 2017, Halda filed a postconviction motion seeking resentencing. In it, he argued that his sentence violated the United States and Wisconsin Constitutions² and thus was unconstitutional. Halda based his argument on two United States Supreme Court decisions that changed the manner in which juveniles are sentenced: *Miller v. Alabama*, 567 U.S. 460 (2012) and *Montgomery v. Louisiana*, 577 U.S. 190 (2016). Following a hearing on the matter, the circuit court denied the motion. This appeal follows.

On appeal, Halda renews his claim that his sentence is unconstitutional. Since filing his appeal, the United States Supreme Court has issued another decision—*Jones v. Mississippi*, 593 U.S. ___, 141 S. Ct. 1307 (2021)—that discussed the *Miller* and *Montgomery* cases and clarified the circumstances under which a juvenile offender can be constitutionally sentenced to life imprisonment without the possibility of parole.³

In *Jones*, the United States Supreme Court concluded that a juvenile homicide offender's life-without-parole sentence complied with its precedents because "the sentence was not

² In particular, Halda cited the prohibition against cruel and unusual punishment in the Eighth Amendment of the United States Constitution and article I, section 6 of the Wisconsin Constitution.

³ We held the appeal in abeyance and ordered supplemental briefing regarding the impact of *Jones v. Mississippi*, 593 U.S. ___, 141 S. Ct. 1307 (2021) on the issue presented.

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mandatory and the trial judge had discretion to impose a lesser punishment in light of [the offender's] youth." *Jones*, 141 S. Ct. at 1322. The Court explained that, "[i]n a case involving [sentencing] an individual who was under 18 when he or she committed a homicide [to life without parole], a State's discretionary sentencing system is both constitutionally necessary *and constitutionally sufficient.*" *Id.* at 1313 (emphasis added). Thus, it rejected the assertion that a court imposing such a sentence must also find the juvenile offender to be permanently incorrigible.⁴ *Id.* at 1316.

Here, there is no dispute that the circuit court had discretion to impose a lesser punishment in light of Halda's youth. Likewise, there is no dispute that the court recognized that discretion at sentencing. In its remarks, the court cited its authority to impose a parole eligibility date and acknowledged Halda's age as a mitigating factor. Ultimately, the court determined that a life-without-parole sentence was necessary given other considerations, including the severity of the crime, Halda's lack of remorse, and Halda's expressed desire to commit similar crimes.⁵ On this record, we are satisfied that the court provided a reasoned explanation for its decision. While Halda's sentence is severe, it is not disproportionately so given the circumstances of the case. In any event, we perceive no constitutional violation requiring resentencing.

Upon the foregoing reasons,

⁴ Halda advanced a similar argument in his appellant's brief. He now concedes in his supplemental brief that no such finding of incorrigibility is required.

⁵ Halda later boasted about the "rush" he experienced when killing the police officer and said that he was willing to "take out" additional officers if he had the chance.

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IT IS ORDERED that the order of the circuit court 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

OFFICE OF THE CLERK



Supreme Court of Wisconsin

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February 16, 2022

To:

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

No. 2017AP1299

State v. Jason Albert Halda, L.C.# 1998CF364

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of defendant-appellant-petitioner, Jason Albert Halda, and considered by this court;

IT IS ORDERED that the petition for review is denied, without costs.

BRIAN K. HAGEDORN, J. did not participate.

Sheila T. Reiff
Clerk of Supreme Court

**Additional material
from this filing is
available in the
Clerk's Office.**