

RECEIVED
03-16-2023
CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
IN SUPREME COURT

No. 2022AP1311-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

AMBER C. DEBREE,

Defendant-Appellant-Petitioner.

RESPONSE TO PETITION FOR REVIEW

JOSHUA L. KAUL
Attorney General of Wisconsin

ABIGAIL C. S. POTTS
Assistant Attorney General
State Bar #1060762

Attorneys for Plaintiff-
Respondent

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 267-7292
(608) 294-2907 (Fax)
pottsac@doj.state.wi.us

The State opposes Debree's petition for review. The court of appeals applied the correct principles of law and standards of review when it affirmed the circuit court's decision. *See State of Wisconsin v. Amber C. Debree*, 2022AP1311-CR (Wis. Ct. App. Dist. II, Feb. 8, 2023) (Pet-App. 3). Debree's petition does not meet the criteria enumerated in Wis. Stat. § (Rule) 809.62(1r). Thus, Debree has not shown any "special and important reasons" warranting review by this Court. *See* Wis. Stat. § (Rule) 809.62(1r).

As the Wisconsin Court of Appeals correctly explained, a "new factor" 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, even though it was then in existence, it was unknowingly overlooked by all of the parties.

Rosado v. State, 70 Wis. 2d 280, 288, 234 N.W.2d 69 (1975); (Pet-App. 6.)

The Wisconsin Court of Appeals correctly concluded that, while Debree is a survivor of domestic abuse, this fact is not a "new factor" for resentencing purposes because Debree was aware of that fact at the time of sentencing. (Pet-App. 7)

Debree's petition lacks a special or important reason for this Court to review the court of appeals' decision. And because the court of appeals' decision does not conflict with controlling precedent, this Court should deny the petition. The court of appeals applied clearly established law to the facts and arrived at the correct result.

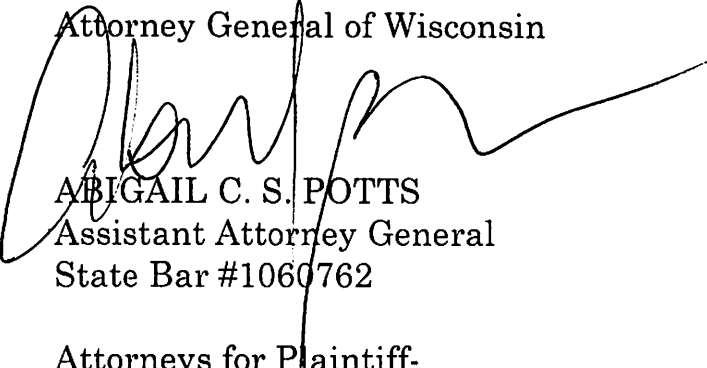
CONCLUSION

This Court should deny Debree's petition for review.

Dated this 16th day of March 2023.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin



ABIGAIL C. S. POTTS
Assistant Attorney General
State Bar #1060762

Attorneys for Plaintiff-
Respondent

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 267-7292
(608) 294-2907 (Fax)
pottsa@doj.state.wi.us

FORM AND LENGTH CERTIFICATION

I hereby certify that this response conforms to the rules contained in Wis. Stat. §§ (Rule) 809.19(8)(b) and 809.62(4) (2019–20) for a response produced with a proportional serif font. The length of this response is 263 words.

Dated this 16th day of March 2023.



ABIGAIL C. S. POTTS
Assistant Attorney General

**CERTIFICATE OF COMPLIANCE WITH
WIS. STAT. §§ (RULE) 809.19(12)
and 809.62(4)(b) (2019–20)**

I hereby certify that:

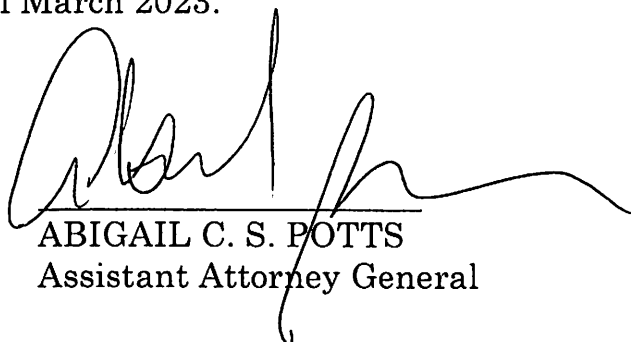
I have submitted an electronic copy of this response, excluding the appendix, if any, which complies with the requirements of Wis. Stat. §§ (Rule) 809.19(12) and 809.62(4)(b) (2019–20).

I further certify that:

This electronic response is identical in content and format to the printed form of the response filed as of this date.

A copy of this certificate has been served with the paper copies of this response filed with the court and served on all opposing parties.

Dated this 16th day of March 2023.



ABIGAIL C. S. POTTS
Assistant Attorney General