



Sentence Adjustments Petitions: An Update

By: *William E. Rosales**

Introduction

Since the passage of the Truth-in-Sentencing (TIS) regime, the legislature has created several mechanisms to allow the early release of TIS inmates. One of those mechanisms is the sentence adjustment statute, which was passed by Act 109 codified as Wis. Stat. sec. 973.195. The sentence adjustment statute allows the sentencing court to adjust the confinement portion of a TIS prison sentence after either 75 or 85 percent of the prison portion has been served.¹ Whether an inmate is eligible for a 25 or a 15 percent reduction in the confinement portion is dependent on the classification of the crime the inmate is serving time on. If an inmate is serving time on a Class C, D or E felony, he or she may petition the sentencing court for a sentence adjustment after serving 85 percent of the prison portion.² An inmate serving time on a Class F, G, H, or I felony may petition the sentencing court after serving 75 percent of the prison portion.³

Since the sentence adjustment statute came into effect, there have been several developments in the courts with regard to how to apply and interpret the statute as well as new legislative proposals. A recent proposal to change the sentence adjustment process appears in Governor Doyle's 2007 Budget Proposal. It includes a provision that would rename the Parole Commission the "Earned Release Review Commission (ERRC)."⁴ If the legislation is passed, the ERRC will have the authority to adjust an inmate's confinement portion if he or she completed 75 percent of the confinement and if he or she meets one of the grounds for adjustment (these grounds are identical to the sentence adjustment petition currently in place): a) conduct and efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since sentencing; b) a change in law and procedure effective after the inmate was sentenced that would have resulted in a shorter term of confinement in prison, if the change had been applicable when the inmate was sentenced; c) the inmate is subject to confinement in another state or the inmate is in the United States illegally and maybe be deported; or d) sentence adjustment is otherwise in the interest of justice.⁵ The ERRC will be limited to reviewing and granting petitions only from inmates who were sentenced to a bifurcated sentence for a Class F, G, H, and I felony.⁶ Further, for all intents and purposes, it seems that the ERRC will be the only agency allowed to make these types of sentence adjustment decisions, therefore disallowing a trial court's ability to grant sentence adjustment petitions under Wis. Stat. 973.195.⁷ Again—since the ERRC is only given authority to grant sentence adjustments to Class F-I felonies, it appears that the trial courts will maintain the ability to grant sentence adjustment petitions for inmates convicted for Class C-E felonies.⁸

In light of the evolving nature of the TIS legislation, it is imperative to examine the legal developments taking place in applying and interpreting the sentence adjustment statute. In order to best advise clients who are eligible for sentence adjustment, the Wisconsin criminal defense bar needs to understand how to best craft a petition that provides a court sufficient knowledge with regard to your client's completed rehabilitation and post-prison release plans.

This article summarizes the relevant sentence adjustment case law since 2005. Further, this article attempts to examine and analyze existing sentence adjustment data to provide insight into any observable trends. Finally, the article provides advice to practitioners on how best to craft a sentence adjustment petition.

Background

Since the enactment of the sentence adjustment statute, it is unclear what the “proper” factors a court should take into account when exercising discretion to grant or deny a petition. The statute sets out several bases an inmate may petition the court in order to adjust their sentence, as follow:

- a) conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs since sentencing;
- b) a change in law and procedure effective after the inmate was sentenced that would have resulted in a shorter term of confinement in prison, if the change had been applicable when the inmate was sentenced;
- c) the inmate is subject to confinement another state or the inmate is in the United States illegally and maybe be deported; or
- d) sentence adjustment is otherwise in the interest of justice.⁹

Meredith Ross’s 2005 *Wisconsin Defender* article, “Sentence Modification and Early Release for TIS Inmates” provides an excellent summary of the eligibility, grounds and procedure for sentence adjustment.¹⁰ At the time of Professor Ross’s article, three important cases regarding the sentence adjustment statute were pending before the Wisconsin Supreme Court. *State v. Trujillo*¹¹, *State v. Tucker*¹², and *State v. Stenklyft*¹³ provided some clarification as to the application and scope of the sentence adjustment statute. These cases are briefly summarized below.

State v. Trujillo: Changes in Penalties Post-Sentencing Is Not a “New Factor” under Sentence Modification Jurisprudence

Trujillo addressed whether the reduction in the maximum penalties permitted by the TIS-II legislation constituted a “new factor” for purposes of sentence modification.¹⁴ *Trujillo* specifically asked the Supreme Court to overrule the court of appeals’ decision¹⁵ in *State v. Torres* which held that “a change in the classification of a crime, which would result in a shorter sentence if the defendant were convicted under the new classification” did not constitute a “new factor” under sentence modification.¹⁶ The Court answered no and affirmed the court of appeals’ decision in *Torres*.¹⁷

Defendant *Trujillo* pled guilty to the crimes of burglary (Class C felony) and fourth degree sexual assault (Class A misdemeanor) on July 22, 2002.¹⁸ The trial court sentenced *Trujillo* to 8 years of initial confinement and 5 years of extended supervision.¹⁹ *Trujillo*, like many other defendants, was sentenced after the TIS-I legislation came into effect and before the TIS-II legislation was enacted.²⁰ Under TIS-I, the crime of burglary was a Class C felony and carried a maximum penalty of 15 years; 10 years of initial confinement and 5 years of extended supervision.²¹ Under TIS-II, the crime of burglary was classified to a Class F felony with a maximum penalty of 12.5 years; 7.5 years of initial confinement and 5 years of extended supervision.²² *Trujillo* was given a higher sentence under TIS-I than he would have received under the reduced penalties under TIS-II.²³

In *Trujillo*, the Supreme Court held that the TIS-II’s “reduced maximum confinement for the same TIS-I felony does not constitute a new factor.”²⁴ Since the legislature did not mandate the retroactive application of the reduced penalties²⁵ and the case law had not recognized reduction in maximum sentencing as a “new factor,” the Court rejected expanding the “new factor” jurisprudence.²⁶ The *Trujillo* court held that the

“adequate” remedy for inmates in similar postures like Trujillo would need to apply for a sentence adjustment petition under Wis. Stat. sec. 974.195.²⁷ Not only was the Court’s decision based on their understanding of the TIS-II legislation, but the Court was also concerned about the potential consequences to the court docket of finding a “new factor” under the facts presented, because over 10,700 inmates were sentenced between the time TIS-I enacted and the date TIS-II was implemented.²⁸

State v. Tucker: Sentence Adjustment applies to TIS-I Inmates.

Tucker clarified two significant issues in the administration of the sentence adjustment statute: whether TIS-I inmates were eligible for sentence adjustment and how to calculate “applicable percentage” for crimes that were re-classified under TIS-II.²⁹ Like Trujillo, Defendant Tucker pled guilty to two crimes that carried higher sentences under TIS-I than under TIS-II.³⁰ Applying the *Trujillo* holding, the Supreme Court denied Tucker’s attempt to recognize the penalty reductions under TIS-II as a “new factor” for purposes of a sentence modification.³¹

Besides addressing the “new factor” issues, the Court decided two other matters not addressed in *Trujillo*. The State argued that the sentence adjustment statute did not apply to TIS-I offenders because the statute “utilizes the TIS-II felony classification system to determine the ‘applicable percentage’ of the term of initial confinement a person must serve in order to be eligible for sentence adjustment.”³² Reasoning that the text of the sentence adjustment statute is ambiguous, the Court held that the legislature could have, but did not, limit the application of the statute to only TIS-II offenders. Because the statute itself provides a mechanism to adjust sentenced based in a change in law or procedure related to sentencing, the statute equally applies to TIS-I offenders.³³

Furthermore, the Court also held that for purposes of determining the applicable percentage a TIS-I offender must serve in order to be eligible for sentence adjustment, one only needs to look to how the crime for which the offender is convicted is classified under TIS-II.³⁴

State v. Stenklyft: District’s Attorney’s “No adjustment for you!”³⁵ provision in the Sentence Adjustment Statute is Unconstitutional

State v. Stenklyft raises and answers the question of the constitutionality of the district attorney’s absolute right to veto a petition brought pursuant to the sentence adjustment statute. The sentence adjustment statute states that “if the district attorney objects to the adjustment of the inmate’s sentence within 45 days of receiving notification . . . , the court shall deny the inmate’s petition.”³⁶ In *Stenklyft*, the trial court granted the sentence adjustment petition over the objection of the State, finding that Stenklyft “had done very well in prison . . . taken advantage of all the opportunities available to [him] and [had] gone beyond what [he] had to do to try to rehabilitate [himself].”³⁷ The State argued that 1) Stenklyft’s good behavior was not a “new factor” and thus did not serve a basis for sentence adjustment; 2) Although Stenklyft was a model prisoner, “his behavior and efforts at rehabilitation were what is expected of prisoners”; and 3) the State had the right to unilaterally veto the petition.³⁸ On a motion for reconsideration, the State further argued that the sentence adjustment statute applied only to crimes governed under TIS-II.³⁹

From casual observation, *State v. Stenklyft* is in odd case for any legally trained attorney to read. From the outset, the lead opinion holds that the district attorney’s veto provision provided in the sentence adjustment statute does not violate separation of power principles (and is hence constitutional) and has no bearing on the court’s inherent powers to modify a sentence.⁴⁰ The lead opinion, though, does not lead the day. With three written opinions with some justices concurring in part with the lead opinion and dissenting in part, the combination provides for a majority to declare that as follow:

Wis. Stat. § 973.195 should be interpreted, to save its constitutionality, so that a circuit court has discretion to consider (but is not bound by) a district attorney's objection to a petition for sentence adjustment, and (2) to declare unconstitutional the lead opinion's interpretation of Wis. Stat. § 973.195 to grant a district attorney a veto power over a petition for sentence adjustment.⁴¹

The majority reasons that the judicial power is compromised "when the district attorney is given the unilateral power" to end a trial court's consideration whether to grant a petition provided under Wis. Stat. 973.195.⁴² To allow for such unilateral power on the part of district attorney is to allow the legislature to "directly affect the judicial branch's role ..to impose sentence penalty and exercise discretion in adjusting the length of a sentence that a court has imposed."⁴³ To limit the trial court in such manner is to deny a petition not on its merits, but merely on the district attorney's power on any particular petition to declare "No Adjustment for you!"⁴⁴ The court finds notable the fact that the sentence adjustment petition "must be filed with the sentencing court, not just any court," therefore providing proof that the adjustment procedure is part of the sentencing court's continuing power.⁴⁵

The *Stenklyft* majority concludes that the text of the statute providing for the district attorney veto provision "evinces a clear violation of the separation of power doctrine"⁴⁶ and provides that the term "shall" contained in Wis. Stat. sec. 973.195(1r)(c) is to be interpreted as "directory, thereby giving a circuit court discretion to accept or reject an objection from the district attorney."⁴⁷ Although *Stenklyft* decided that the district attorney veto provision is unconstitutional, it still left the question open as to whether the victim veto provision encompassed in Wis. Stat. 973.195(1r)(d) is constitutional. From CCAP records, it appears that some sentence adjustment petitions have been denied due to objections from victims.

Sentence Adjustment Petitions by the Numbers

Figure 1 below demonstrates the number of sentence adjustment petitions that have been granted⁴⁸ and denied⁴⁹ since 2003. Please note that Milwaukee County is excluded because according to Sarah Gunn of the Milwaukee Clerk of Courts, Milwaukee was unaware for a period of time the specific CCAP codes to be used for Petitions to Sentence Adjustment.⁵⁰ In light of the fact that clerks statewide might have experienced similar issues, the figure below is not to be a full and adequate accounting of the sentence adjustment petitions granted and denied, but rather is meant to highlight general trends.

Overall, the percentage of petitions granted statewide has increased between 2003 and 2006.⁵¹ In 2006, the number of petitions granted was roughly 22%, a significant increase from the 4 % granted in 2003. In 2006, Dane County accounted for 21% of the 197 petitions granted and 17% of the 704 petitions denied. Waukesha County accounted for 11% of the 197 petitions granted and 12% of the 704 petitions denied. Although the trend reflects that more sentence adjustment petitions are being granted, overall, the percentage of petitions granted in relation to petitions denied is heavily skewed toward denial. Overall, 197 of petitions filed were granted in 2006, while 704 were denied.

Figure 1: Number of Sentence Adjustment Petitions Granted and Denied Excluding Milwaukee County

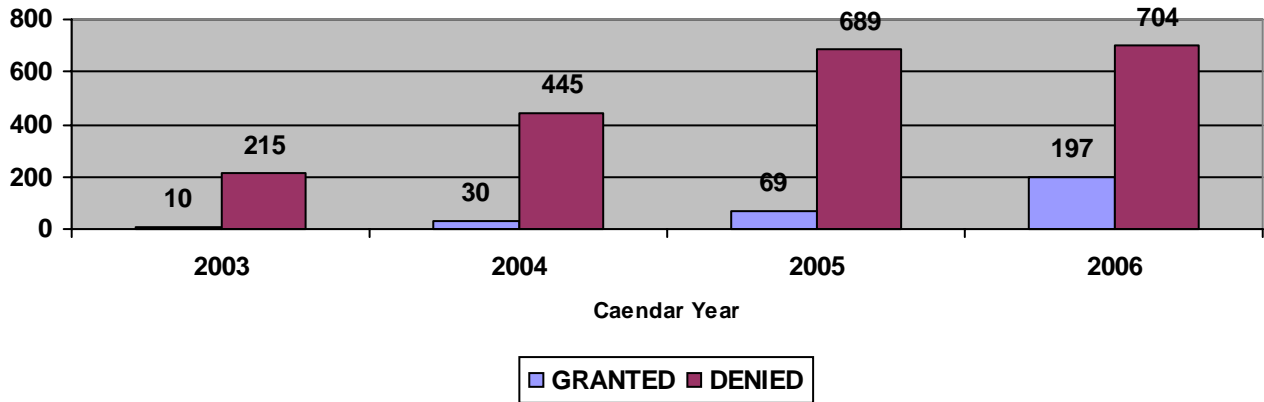


Figure 2 and 3 below attempt to observe the types of underlying offenses that constitute petitions granted under the sentence adjustment statute. Out of the 197 petitions granted statewide (excluding Milwaukee), Dane and Waukesha County accounted for a total of 66, or 34 percent of the total.⁵²

Figure 2 below represents the number of sentence adjustment petitions granted in Dane County for the 2006 calendar year. Of the 197 total petitions granted statewide, Dane County granted 43 petitions. Of the 43 petitions granted, 33 of them were petitions where the underlying offense classification was either a Class F or a Class H felony. Within the 14 granted petitions with underlying F felonies, burglary constituted the underlying offense for 9 of the granted petitions. Within the 19 granted petitions with underlying H felonies, forgery and bail jumping constituted the underlying offense for 16 of the granted petitions (8 for each).

The sentence adjustment statute does not provide that individuals sentenced as misdemeanor habitual criminals under Wis. Stat. sec. 939.62(1)(a) are eligible for sentence adjustment. Interestingly enough, a review of the 43 petitions granted in Dane County reveals that judges in at least 4 cases granted sentence adjustment for misdemeanor habitual criminal cases. To date, there are no reported published or unpublished cases addressing the question as to whether they can submit a petition for sentence adjustment. Fairness surely dictates that these inmates should be eligible to submit a petition under Wis. Stat. 973.195, even though misdemeanor repeaters are not included in section (1g) that addresses the classification of crimes for purposes of assessing the “applicable percentage.” Further, misdemeanor repeaters are surely serving a sentence under Wis. Stat. 973.01 for a crime other than Class B felony and hence arguably “eligible” pursuant section (1r) of Wis. Stat. 973.195. The question becomes what applicable percentage—75 or 85 percent—of the term of confinement in prison do they serve before they can apply for a sentence adjustment. In light of the less aggravated nature of their underlying offense, common sense and fairness argument suggest that they should apply for a sentence adjustment when they have served 75 percent of their confinement time.

Figure 2: Number of Sentence Adjustment Petitions Granted by Offense Classification in Dane County in Calendar Year 2006

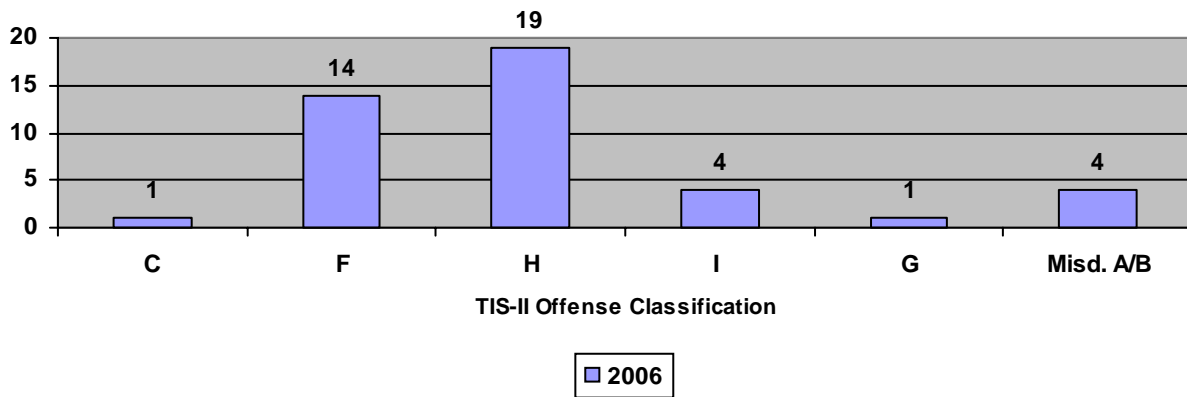
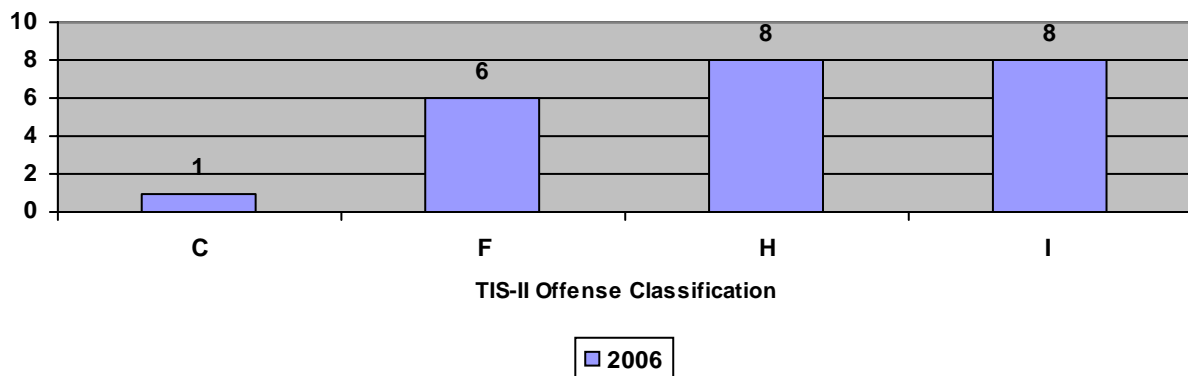


Figure 3 below represents the number of sentence adjustment petitions granted in Waukesha County for the 2006 calendar year. Of the 197 total petitions granted statewide, Waukesha County granted 23 petitions. Of the 23 petitions granted, 16 were petitions where the underlying offense classification was either a Class F or a Class H felony. Unlike Dane County, there seem to be a variety of underlying offenses that constitute the petitions granted. Overall, though, non-violent underlying offenses constitute the majority of the petitions granted. Of the 23 petitions granted, 4 of them had forgery as an underlying offense, 7 of them had burglary/theft as an underlying offense and 5 of the them had operating while under the influence (5th) as an underlying offense.

Figure 3: Number of Sentence Adjustment Petitions Granted by Offense Classification in Waukesha County in Calendar Year 2006



How can I effectively assist my client with a sentence adjustment petition?

Defendants are not entitled to State Public Defender representation on sentence adjustment petitions. However, some defense attorneys are receiving requests to represent inmates in these petitions. This

section provides some insights that may help you better represent inmate clients in these cases. Unfortunately, Wis. Stat. sec. 973.195 and the legislative history of the statute provide very little in the way of standards or guidance as to how a judge should decide whether to grant a sentence adjustment petition. In *Stenklyft*, the circuit court judge in granting the petition shared the concern that “a lot of judges around the state view this law [Wis. Stat. 973.195] with some skepticism...because there are not standards in the statute that tell us what we’re supposed to be looking at.”⁵³

It is the experience of the Remington Center that the more information you provide to the sentencing court with regard to your client’s programming and rehabilitation successes, as well as employment and living options post-release, the better your client will fare in front of the court. Although the Wisconsin Court System and the Department of Corrections (DOC) require the use of standard forms⁵⁴ when submitting a petition for sentence adjustment, it is incumbent upon counsel to submit a supplemental petition attached to the required forms to provide the sentencing court a thorough reflection on your client’s reasons why the court should grant the petition.

Timing: Defendants eligible for sentence adjustment petitions are not eligible to apply until they have served the “applicable percentage” time in confinement depending on the underlying TIS-II offense classification. Since the statute in effect provides the circuit court an undetermined time to consider the sentence adjustment petition⁵⁵ and further provides 45 days for the district attorney to respond if they receive notice from the circuit court that they are considering the petition,⁵⁶ it is vital that petitions are filed immediately after an inmate become eligible.⁵⁷ Therefore, it is important that you gather the supporting documents and information you will need for a supplemental petition. In some cases, it is likely that the time of confinement might be served by the time the various court actors respond to the sentence adjustment petition. In fact, in 2006 a judge in Dane County had to vacate an order granting a sentence adjustment petition because by the time it was granted, the inmate had already served the entire confinement period.

Content of Supplemental Petition: Unlike the Earned Release Program (another TIS early release mechanism) where the DOC determines whether an inmate has successfully completed the program and informs the sentencing court of that fact,⁵⁸ the sentence adjustment statute does not provide for any statutory or administrative framework that provides a sentencing court with the necessary information to decide whether to grant a petition.⁵⁹ The most common ground that an inmate will petition for a sentence adjustment is because he or she has taken advantage of the treatment and programming opportunities while incarcerated.⁶⁰ However, the required forms to request a sentence petition do not sufficiently provide the court with this type of information. Thus, a supplemental petition should demonstrate the treatment and rehabilitation opportunities that your client has completed. The supplemental petition should also include as exhibits any copies of certificates and or awards that your client has received while incarcerated. A common concern that the Remington Center has heard from judges is that sentence adjustment petitions do not include information as to the inmate’s post-release plans. Since the sentencing judge is deciding whether to release an inmate from confinement, you and the client should present a “parole” plan for the judge to consider. Such information should include any employment and housing options that are available once the inmate is released from confinement. Information and or affidavits attesting to a support system that will make it easier for the inmate once he or she is released would also be helpful.

A common logistical problem with inmates is that they may not get accepted into the treatment and or programming that they need by the time they are eligible for a sentence adjustment. If that is the case, counsel should research community organizations and or agencies that will be available for your client upon release, so that he or she could take treatment and or programming on an outpatient basis.

Request a Hearing: Although Wis. Stat. sec. 973.195 does not give an inmate a statutory right for a hearing on the petition, you should request one and request that your client appear in person. As part of the required forms that the prison records supervisor has to fill out in order to verify that the inmate served the applicable percentage of confinement time, the records supervisor also submits copies of any “offender conduct reports” that the inmate has received while incarcerated. Presumably, before submitting a supplemental petition, you have reviewed your client’s conduct reports. One strategy would be to recognize any bad conduct in the supplemental petition and try to mitigate it. Another strategy is to not recognize it in your written supplemental petition but respond to it if it comes up during the hearing on the petition. Your choice of strategy will depend on what is in the conduct report and whether you need to clarify to the court what exactly the conduct report means. In general, an “offender conduct report” includes a “decision date”, a “violation”, “time extended” and “disposition.” Under the “violation” column, the report will probably only include a rule and a rule number pursuant to the DOC’s Discipline Code.⁶¹ The report is not meant to provide thoughtful information as to what actually occurred that lead to a conduct report, but rather is a summary report that DOC keeps to keep track of an offender’s conduct record. In that respect, the report correctly uses rule numbers and DOC short-hand to serve the DOC’s purposes. The problem with these reports is that they do not give the sentencing judge any thoughtful information about what exactly the inmate did to receive a conduct report. A hearing might be useful to explain or mitigate such conduct reports if it becomes an issue before the sentencing court. Further, it is not unheard of for a district attorney to request a records supervisor to appear in person or via the telephone at a sentencing adjustment hearing in order to explain to the judge what exactly is contained in the offender conduct report.

Conclusion

The application and interpretation of the sentence adjustment statute is still evolving. Although the data suggest that a majority of sentence adjustment petitions will be denied, the trend since 2003 is a positive one. Crafting and submitting to the sentencing court a thoughtful supplemental sentence adjustment petition might go a long way in increasing the chances that a judge might release an inmate client from confinement.

Endnotes

1. Wis. Stat. §973.195 (2005-06).
2. *Id.*
3. *Id.*
4. See Legislative Reference Bureau, “2007-09 Wisconsin State Budget; Summary of Governor’s Budget Recommendations” at <http://www.legis.state.wi.us/lfb/2007-09budget/Governor/tableofcontents.htm> (last visited April 22, 2007); See also Callender, David, “Doyle’s Budget Surprises: ‘Truth in Sentencing’ take hit.” Capital Times, March 7, 2007, at A1, also at <http://www.madison.com/archives/read.php?ref=/tct/2007/03/07/0703070432.php> (last visited April 22, 2007).
5. *Id.*
6. *Id.*
7. *Id.*
8. *Id.*
9. Wis. Stat. §973.195.
10. Ross, Meredith, *Sentencing Modification and Early Release for TIS Inmates*, THE WISCONSIN DEFENDER, Winter/Spring 2005.
11. *State v. Trujillo*, 2005 WI 45, 279 Wis. 2d 712, 649 N.W.2d 933.
12. *State v. Tucker*, 2005 WI 46, 279 Wis. 2d 697, 694 N.W.2d 926.
13. *State v. Stenklyft*, 2005 WI 71, 281 Wis. 2d 484, 697 N.W.2d 769.

14. *Trujillo*, 2005 WI 45, ¶11.
15. *Trujillo*, 2005 WI 45, ¶15.
16. *State v. Torres*, 2003 WI App 199, ¶7, 267 Wis. 2d 213; 670 N.W.2d 400.
17. *Trujillo*, 2005 WI 45, ¶19.
18. *Trujillo*, 2005 WI 45, ¶ 7.
19. *Id.*
20. *Trujillo*, 2005 WI 45, ¶ 6-7.
21. *Trujillo*, 2005 WI 45, ¶ 8.
22. *Id.*
23. *Trujillo*, 2005 WI 45, ¶ 7-8.
24. *Trujillo*, 2005 WI 45, ¶ 2.
25. *Trujillo*, 2005 WI 45, ¶ 21-22.
26. *Trujillo*, 2005 WI 45, ¶ 21.
27. *Trujillo*, 2005 WI 45, ¶ 25.
28. *Trujillo*, 2005 WI 45, ¶ 28.
29. *Tucker*, 2005 WI 46, ¶ 2.
30. *Tucker*, 2005 WI 46, ¶ 3-4.
31. *Tucker*, 2005 WI 46, ¶ 8-9.
32. *Tucker*, 2005 WI 46, ¶ 14.
33. *Tucker*, 2005 WI 46, ¶ 17-20.
34. *Tucker*, 2005 WI 46, ¶ 23.
35. *Stenklyft*, 2005 WI 71, ¶ 97.
36. Wis. Stat. §973.195(1r)(c).
37. *Stenklyft*, 2005 WI 71, ¶ 14.
38. *Stenklyft*, 2005 WI 71, ¶ 12.
39. *Stenklyft*, 2005 WI 71, ¶ 15.
40. *Stenklyft*, 2005 WI 71, ¶ 62.
41. *Stenklyft*, 2005 WI 71, ¶ 82.
42. *Stenklyft*, 2005 WI 71, ¶ 84.
43. *Stenklyft*, 2005 WI 71, ¶ 93.
44. *Stenklyft*, 2005 WI 71, ¶ 97.
45. *Stenklyft*, 2005 WI 71, ¶ 95, n. 19.
46. *Stenklyft*, 2005 WI 71, ¶ 94.
47. *Stenklyft*, 2005 WI 71, ¶ 83.
48. Granted as defined by the total count of the number of the following court record events used on the Wisconsin Consolidated Court Access Program (CCAP) : PSADD (Petition for sentence adjust denied-D.A. objection), PSADF (Petition for Sentence Adjust. Denied-A or B Felony), PSADI (Petition for sentence adjust denied-public interest), PSADP (Petition for sentence adjust denied-percent sent), PSADS (Petition for sentence adjust denied - summarily) and PSADV (Petition for sentence adjust denied-victim object).
49. Denied as defined as defined by the total count of the number of the following court record events used on the Wisconsin Consolidated Court Access Program (CCAP): PSAG (Petition for sentence adjustment granted) and PSAGL (Petition for sentence adjust granted - law change).
50. Email correspondence with Milwaukee County Clerk Sarah Gunn. At the time of this writing, the Frank J. Remington Center is actively trying to determine the number of sentence petitions granted and denied in Milwaukee County.
51. That's assuming that the number of petitions granted and denied account for the total number of petitions

submitted to the court for consideration.

52. Given the practice that the clerk of courts are not required to use the sentence adjustment codes provided under CCAP, these number might be underestimating the number of petitions granted. In general, a petition for sentence adjustment granted during calendar year 2006 represents a CCAP search for either the entry of the following court record events: "Petition for sentence adjustment granted" or "Petition for sentence adjust granted - law change" on cases with a court record date range of 01-01-2006 through 12-31-2006. There were only two recorded cases in Dane County and none for Waukesha County that met the criteria of "Petition for sentence adjustment granted—law change." In light of that, the figures below only examine cases that met the CCAP entry of "Petition for sentence adjustment granted."

53. *Stenklyft*, 2005 WI 71 ¶ 13.

54. The Wisconsin Court System provides standard forms for filing a sentence adjustment petition. These forms can be found online at <http://www.wicourts.gov/forms1/index.htm> (last visited April 30, 2007).

The two forms that your client or a defendant submitting pro se need are the CR-258: Petition for Sentence Adjustment §973.195 and the CR-260: Verification of Time Served §973.195. The defendant fills out the CR-528, while the records supervisor fills out the CR-260. See also, Ross, at 8-9.

55. See Wis. Stat. §973.195(1r)(c).

56. See Wis. Stat. §973.195(1r)(c).

57. The statute further provides that for certain sex offenses under Wis. Stat. sec. 940.225 (2) or (3), 948.02(2) or 948.08, within 10 days that the district attorney receives notice from the court and does not object to the sentence adjustment petition, the district attorney must notify the victim about the sentence adjustment petition. See Wis. Stat. §973.195(1r)(d).

58. See Wis. Stat. §§302.05(3) and 973.01(3g) (2005-06).

59. See generally Wis. Stat. §973.195 (2005-06).

60. Wis. Stat. §973.195(1r)(b)1.

61. Wis. Admin. Code §DOC 303.

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