

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 9, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal Nos. 2025AP1470-CR
2025AP1471-CR
STATE OF WISCONSIN**

**Cir. Ct. Nos. 2020CF662
2021CF803**

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

BRIAN GREG HILDEBRAND,

DEFENDANT-APPELLANT.

APPEALS from judgments and an order of the circuit court for Sheboygan County: REBECCA L. PERSICK, Judge. *Affirmed.*

Before Lazar, P.J., Gundrum, and LoCoco, JJ.

Per curiam opinions 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).

¶1 PER CURIAM. Brian Greg Hildebrand appeals from the circuit court’s judgments of conviction and its order denying his postconviction motion. Based upon our review of the briefs and Record, and for the following reasons, we affirm.

BACKGROUND

¶2 In 2021, Hildebrand was convicted of stalking his former girlfriend.¹ Initially, the circuit court deferred entering the judgment of conviction, withheld sentence, and ordered Hildebrand to complete three years of probation.²

¶3 Hildebrand resumed stalking her, and damaged her car and her boyfriend’s car and property. In 2022, Hildebrand was again convicted of stalking, as a repeater.³ The State terminated the deferred conviction agreement because Hildebrand violated the prohibition against committing further criminal law violations. His probation was revoked. Hildebrand was then sentenced for one count of stalking in the 2020 case and for one count of felony bail jumping and one count of stalking, both with repeater enhancers and both to which he pled no contest, in the 2021 case. The circuit court withheld the sentence and imposed

¹ Hildebrand was initially charged with one count of stalking with a domestic abuse enhancer, and later the State amended the information to add one count of obstructing an officer and two counts of disorderly conduct with domestic abuse enhancers.

The Honorable L. Edward Stengel presided over the sentencing hearing in 2021.

² As part of the agreement, Hildebrand pled no contest to one count of obstructing an officer and two counts of disorderly conduct with domestic abuse enhancers. He was convicted of those three misdemeanors and sentenced to three years of probation.

³ Hildebrand was charged with two counts of stalking, five counts of criminal damage to property, and five counts of felony bail jumping, all with repeater enhancers. He pled no contest to one count of felony bail jumping and one count of stalking, both with repeater enhancers.

three years of probation. For the revocation of the probation initially imposed in the 2020 case, the court sentenced him to time served.⁴

¶4 Hildebrand’s probation was revoked again for using and possessing methamphetamine with the intent to distribute, maintaining a drug trafficking place, and possessing ammunition, which violated the terms of his probation. The revocation packet noted that Hildebrand had also had intermittent contact with his ex-girlfriend, which was another violation of his probation’s terms.

¶5 At the sentencing hearing after revocation, the circuit court said that it had to consider the three primary factors when issuing a sentence.⁵ The court began by referencing the nature and gravity of the offenses and listed the multiple felony charges, many of which had repeater enhancers, which made them more serious felonies. The court also addressed the need to protect the community and the danger of drugs, addiction, and the crimes associated with that activity. Finally, it addressed the factor of Hildebrand’s character, stating that it did not consider him “a bad person” but expressing concern over his focus on his ex-girlfriend and the stalking case. The court noted that he was being sentenced in part on the stalking case, but also because of his conduct that led to the revocation of his probation. Ultimately, the court sentenced Hildebrand to three years of initial confinement and three years of extended supervision.

⁴ The Honorable Samantha R. Bastil presided over the sentencing hearing on revocation in 2022.

⁵ The Honorable Rebecca L. Persick presided over the sentencing hearing after revocation in 2023.

¶6 Hildebrand filed a postconviction motion for resentencing, or, in the alternative, for an adjustment of his sentence credit, arguing that the circuit court did not consider the gravity of the offenses when imposing its sentence. Hildebrand asserted that the court referenced the underlying charges but did not discuss the facts relating to those crimes, the seriousness of the offenses, or his culpability. After a hearing, the court denied the motion. The court rejected Hildebrand’s resentencing argument, noting that it explicitly mentioned the gravity of the offenses during sentencing.

¶7 Hildebrand appeals.

DISCUSSION

¶8 We review the circuit court’s sentencing under an erroneous exercise of discretion standard. *State v. Fuerst*, 181 Wis. 2d 903, 909, 512 N.W.2d 243 (Ct. App. 1994). A sentencing court properly exercises its discretion when it relies on controlling law and sets out reasoning that supports the sentence imposed. See *McCleary v. State*, 49 Wis. 2d 263, 277, 182 N.W.2d 512 (1971). “[W]e are obliged to search the record to determine whether in the exercise of proper discretion the sentence imposed can be sustained.” *State v. Hall*, 2002 WI App 108, ¶19, 255 Wis. 2d 662, 648 N.W.2d 41 (quoting *McCleary*, 49 Wis. 2d at 282).

¶9 “[J]udges are to explain the reasons for the particular sentence they impose. How much explanation is necessary, of course, will vary from case to case. Judges, however, are required to provide a ‘rational and explainable basis’ for the sentence.” *State v. Gallion*, 2004 WI 42, ¶39, 270 Wis. 2d 535, 678 N.W.2d 197 (citations omitted). “The circuit court possesses wide discretion in determining what factors are relevant to its sentencing decision.” *Id.*, ¶68. Its

discretion includes “[t]he weight to be given each factor[.]” **State v. Stenzel**, 2004 WI App 181, ¶9, 276 Wis. 2d 224, 688 N.W.2d 20. There are no magic words that the court must utter: “[a] circuit court need not explicitly use the phrase ‘gravity of the offense’ in order to meet the requirement of an on-the-record explanation of sentence. However, it must be discernible from the sentencing transcript that the court considered the required factors, including gravity of the offense.” **State v. Bolstad**, 2021 WI App 81, ¶26, 399 Wis. 2d 815, 967 N.W.2d 164 (internal citation omitted). “[W]hen we review a sentence, we still look to the entire record, including any postconviction proceedings and to the totality of the court’s remarks.” **Stenzel**, 276 Wis. 2d 224, ¶9. When, as here, the defendant’s sentencing challenge follows the imposition of a revocation sentence, this court may, under certain circumstances, look to the original sentencing as well. **State v. Jones**, 2005 WI App 259, ¶10, 288 Wis. 2d 475, 707 N.W.2d 876.⁶

¶10 On appeal, Hildebrand reasserts his argument that he is entitled to resentencing because the Record does not reflect that the circuit court adequately considered the gravity of the underlying offenses. We conclude that the court properly exercised its discretion because the Record reflects that it considered the gravity of the offenses in imposing Hildebrand’s sentence.

⁶ We note that the final sentencing court was not the circuit court that imposed the earlier withheld sentence, and while that does not prohibit this court from, in some circumstances, considering the entire Record (and all sentencing transcripts), “we have no basis for assuming that the second judge has acknowledged or adopted the reasoning of the first, absent either an explicit statement to that effect or a record otherwise demonstrating that that is so.” **State v. Reynolds**, 2002 WI App 15, ¶8, 249 Wis. 2d 798, 643 N.W.2d 165 (2001). There was no such statement made at the revocation sentencing. We strongly encourage circuit court judges to make an explicit statement—even if they were the initial sentencing judge. Simply put, it is a good practice not only to assist appellate courts but to provide defendants with a more detailed explanation of their sentence.

¶11 During the sentencing hearing after revocation, the circuit court explicitly stated that it considered the nature and gravity of the offenses. It went on to list the offenses, noting which were felony offenses, and which had enhancers. It noted where the enhancers elevated the felony offense from a “lower level felony” to a “mid-level felony[.]” It noted that “[t]here were also multiple dismissed and read in charges” in the second case and “[t]hat was a 12-count [c]omplaint.” It stated that it would be inappropriate to give him credit for time served because that “would unduly depreciate the seriousness of the offenses, especially with all those dismissed and read in charges and because it doesn’t appear that much has been done so far to address the substance abuse needs.”

¶12 In addition, the circuit court referenced statements made by Hildebrand. The court noted that in his statement, Hildebrand “focused a lot on the victim and the stalking case.” The court further explained that Hildebrand “did say in the statement ... that [he was not] saying what [he] did wasn’t wrong.”

¶13 The Record also evidences the circuit court’s consideration of the gravity of the offenses during the postconviction proceedings:⁷

So I know I addressed the gravity of the offenses on page 12 and 13 of that sentencing hearing transcript. ... I did the sentencing after revocation. And my standard practice is to say when I talk about the nature and gravity of the offense how it weighs against or for someone. And typically with felonies with repeater enhancers, I would add the language so that weighs against you.

I didn’t say that in this case, but I certainly considered it. And it’s clear from the record that I did that. And I don’t think there’s any other way to construe it because I did address the fact that these were felonies and that there were

⁷ The Honorable Rebecca L. Persick presided over the postconviction hearing in 2025.

penalty enhancers that made them more like a mid-level felony. Felonies are the most serious type of crime.

So I may not have used that language, but I certainly did consider it. And so I'm gonna deny the motion because I know that I did consider it, and the record is clear that I at least -- I at least noted the fact that these were felonies with penalty enhancers.

¶14 Hildebrand argues that this case is similar to ***Bolstad*** in that the sentencing court did not consider the underlying facts or the gravity of the defendant's conduct. The ***Bolstad*** court concluded that the circuit court erroneously exercised its discretion because of "the absence of any reference in the record to facts related to the underlying offense or any indication in the record that the circuit court considered the gravity of the underlying offense[.]" 399 Wis. 2d 815, ¶27. But ***Bolstad*** differs from Hildebrand's case, because here, the court explicitly considered the nature and gravity of the offenses.

¶15 The Record demonstrates that the circuit court considered the gravity of the offense in imposing sentence. Thus, we conclude that the circuit court did not erroneously exercise its discretion in sentencing Hildebrand.

By the Court.—Judgments and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2023-24).

Nos. 2025AP1470-CR(C)
2025AP1471-CR(C)

¶16 LOCOCO, J. (*concurring*). This was a flawed sentencing—but a flawed sentencing is not necessarily an unlawful one. The circuit court’s decision lacked virtually any discussion of the misconduct supporting Hildebrand’s stalking and bail-jumping convictions. Instead, the court apparently believed simply listing Hildebrand’s charges and their classes and modifiers meant it had adequately considered the gravity of the offenses. Current law (the wisdom of which is not at issue) requires more. A circuit court should tie the defendant’s actions, as opposed to just the laws under which the State has charged the defendant, to the sentence it imposes. This permits the judiciary and the public to understand (among other things) why *this* stalker might have received a heavier or lighter sentence than *that* stalker. See *McCleary v. State*, 49 Wis. 2d 263, 271, 182 N.W.2d 512 (1971); *State v. Gallion*, 2004 WI 42, ¶42, 270 Wis. 2d 535, 678 N.W.2d 197.

¶17 This sentencing survives, in my view, because of comments the circuit court aimed at Hildebrand’s attempt to minimize the gravity of his offenses. After meaningful discussion of the facts of the case by the State and defense counsel, Hildebrand used his allocution to shift blame to his victim for his crimes. The circuit court reminded Hildebrand that he had earlier received probation following these offenses, yet his life continued to spiral out of control. I take this as an awareness and an acknowledgment by the court of Hildebrand’s view of the facts—but a rebuttal that other sentencing factors mattered more. In fact the court later advised Hildebrand of its prioritization of public protection in this case (as opposed to considerations relating to the gravity of the offenses). That court, not

this one, chooses the relative import of each factor in its sentencing decision. See *State v. Stenzel*, 2004 WI App 181, ¶9, 276 Wis. 2d 224, 688 N.W.2d 20. It likely served Hildebrand well that the court did not dwell longer on his outrageous acts.

¶18 Still, the circuit court should have said more. While we should not micromanage busy trial court judges, it is not too much to ask that a sentencing court include some reference, however brief, to the actual criminal conduct requiring the defendant's punishment. The transcript before us just inches onto the right side of the line.

Nos. 2025AP1470-CR
2025AP1471-CR