

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

July 6, 2001

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

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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.

**No. 00-2453-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**SCOTT J. STANNARD,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Milwaukee County: MEL FLANAGAN, Judge. *Affirmed.*

Before Dykman, P.J., Roggensack and Lundsten, JJ.

¶1 PER CURIAM. Scott Stannard appeals from a judgment convicting him of theft and an order denying his motion for postconviction relief. Stannard contends that the presentence report writer was biased against him, prejudicing the sentencing process. We affirm.

¶2 Stannard pled guilty to theft for taking a vehicle from Badger Sales and Lease. After the plea hearing, the prosecutor wrote a letter to the person responsible for drafting the presentence report. The letter stated, in pertinent part:

You will shortly be receiving a [presentence report] order from Judge Mel Flanagan....

[The defendant] advised the court that he has had a series of hospitalizations for AODA and other mental health issues. Those hospitalizations include:

Northwest General, 1997  
Meritor Hospital (Dane Co) 12/95 – 2/96  
Dr. Basil Jackson, 1993  
Milwaukee Psych, 1991-2  
DePaul, 1989-90

His attorney is Fred Van Hecke, 200 West Silver Spring Dr., Milwaukee, 53217.... The attorney indicated he might be able to send you these records to expedite matters. Otherwise, you may wish to request waivers/consents from the defendant or his attorney, as the defendant can be a bit difficult to deal with.

I would appreciate inclusion of information from some of these sources, as I believe it will help explain some of what we are dealing with. I believe the defendant has a record from outside of Milwaukee County, including Dodge, Dane and Waukesha counties.

His current P.O. is Bethany Vaughn, 265-7711. Please call me if you have any further questions. Thank you.

The presentence report writer received the letter and prepared a report.

¶3 At the sentencing hearing, the trial court considered the report and allowed Stannard an opportunity to correct any inaccurate information, which he did. The trial court imposed a four-year term of imprisonment. Stannard then moved for postconviction relief, arguing that the presentence report writer was biased. The trial court rejected the argument.

¶4 A defendant has a due process right to be sentenced on the basis of true and accurate information. *State v. Coulthard*, 171 Wis. 2d 573, 591, 492 N.W.2d 329 (Ct. App. 1992). A defendant claiming that his due process right to a fair sentencing hearing was violated by a biased presentence report writer “must demonstrate both bias in the [presentence report] writer and that the sentencing process was prejudiced by such bias.” *State v. Suchocki*, 208 Wis. 2d 509, 516, 561 N.W.2d 332 (Ct. App. 1997). The court may consider the reasonableness and accuracy of the presentence report in determining whether the writer was biased. *Id.* at 517.

¶5 We reject Stannard’s argument for two reasons. First, we agree with the trial court that the prosecutor’s letter did little more than direct the presentence report writer to relevant sentencing information. Although the prosecutor expressed her view that Stannard could be “a bit difficult to deal with,” this statement was not improper. *See* WIS. STAT. § 972.15(2m) (1999-2000)<sup>1</sup> (the presentence report writer may solicit information from any “appropriate person”). Second, our review of the report itself shows that it is reasonable in tone and presents a balanced view of the circumstances surrounding Stannard’s crime. Stannard has not pointed us to, nor have we found, anything in the report that suggests bias. Therefore, we reject Stannard’s claims.<sup>2</sup>

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<sup>1</sup> All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

<sup>2</sup> Because we have concluded that the presentence investigation report was not biased, we need not address Stannard’s argument that his trial counsel was ineffective for failing to raise the issue of bias.

*By the Court.*—Judgment and order affirmed.

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

