



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

December 3, 2024

To:

Hon. David L. Weber
Circuit Court Judge
Electronic Notice

John D. Flynn
Electronic Notice

Connie DeFere
Clerk of Circuit Court
Door County Courthouse
Electronic Notice

James A. Rebholz
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You are hereby notified that the Court has entered the following opinion and order:

2022AP1917-CR State of Wisconsin v. Skyler K. Bohling
(L. C. No. 2020CF121)

Before Stark, P.J., Hruz and Gill, 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).

Skyler K. Bohling appeals a judgment convicting him of two counts of second-degree sexual assault of an unconscious victim and an order denying his motion for resentencing. He argues that the circuit court erroneously exercised its sentencing discretion. After reviewing the briefs and record, we conclude at conference that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

Bohling was charged with five counts of second-degree sexual assault of an unconscious sixteen-year-old victim, Maureen,² after Maureen disclosed the assaults to her mother and then a police investigator. Pursuant to a plea agreement, Bohling pleaded guilty to two of the counts, and the remaining three counts were dismissed. The circuit court sentenced Bohling to eight years of initial confinement followed by eight years of extended supervision, consistent with the State's recommendation under the plea agreement. Bohling subsequently moved for resentencing, arguing that the court erroneously exercised its sentencing discretion. The court denied the motion, and Bohling now appeals.

Our review is guided by well-established principles. Appellate review of a sentencing decision is limited to determining whether the circuit court properly exercised its discretion in imposing the sentence. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. “[A] discretionary determination must be the product of a rational mental process by which the facts of record and law relied upon are stated and are considered together for the purpose of achieving a reasoned and reasonable determination.” *Milwaukee Women’s Med. Serv., Inc. v. Scheidler*, 228 Wis. 2d 514, 524, 598 N.W.2d 588 (Ct. App. 1999).

When imposing a sentence, the circuit court must identify its sentencing objectives, “which include protecting the community, punishing the defendant, rehabilitating the defendant, and deterring others.” *State v. Owens*, 2016 WI App 32, ¶25, 368 Wis. 2d 265, 878 N.W.2d 736. “In determining the sentencing objectives, the circuit court must consider a variety of factors,

² Pursuant to the policy underlying WIS. STAT. RULE 809.86, we use a pseudonym to refer to the victim.

including the gravity of the offense, the character of the defendant, and the need to protect the public.” *Id.* “The weight assigned to each factor is left to the circuit court’s discretion.” *Id.*

Bohling first contends that the circuit court improperly exercised its discretion by failing to give sufficient weight to mitigating factors, such as his limited criminal history, his lack of prior supervision, and his ability to work and support his family while out on bail. He asserts that these factors demonstrate that he does not pose a threat to the public.

Our review of the sentencing transcript confirms that the circuit court considered the mitigating circumstances and favorable aspects of Bohling’s character. The court acknowledged that Bohling was attending therapy, had been cooperative, and had taken responsibility for his actions. It noted that these factors reflected positively on Bohling’s potential risk during extended supervision. However, the court emphasized that its responsibilities extended beyond addressing Bohling’s rehabilitative needs and that included the need to protect the public and to deter similar offenses. The court stated that the sentence needed to send a clear message to the community that sexual assaults would be met with serious consequences. The record shows that the court appropriately balanced mitigating factors with the need for deterrence. Although Bohling disagrees with the relative weight the court accorded these considerations, they were committed to the circuit court’s discretion.

Bohling next argues that the circuit court failed to adequately explain why a lengthy prison sentence was necessary. He contends that the public could be sufficiently protected through a shorter term of initial confinement, combined with treatment and stringent terms of extended supervision.

Bohling's argument is unpersuasive. *Gallion* teaches that the circuit court should impose "the minimum amount of custody or confinement which is consistent with the protection of the public, the gravity of the offense and the rehabilitative needs of the defendant." *Gallion*, 270 Wis. 2d 535, ¶23 (citation omitted). Bohling's sentence was not based solely on the need to protect the public. The court also considered the extremely serious and aggravated nature of his crimes, including their repeated commission. Bohling repeatedly assaulted Maureen, with whom he had a relationship of trust, causing tremendous harm to her and her family. The court thoroughly explained why the imposed prison sentence was necessary in this context.

Bohling further argues that the circuit court erred by considering Maureen's father's victim impact statement, claiming that the father was biased due to his jealousy over Bohling's relationship with Maureen. We reject this argument. Maureen's father was directly affected by Bohling's crimes, and the court appropriately considered his victim impact statement under WIS. STAT. § 950.02(4)(a)2., which provides that when the victim is a child, his or her parent is also a victim and is thus entitled to provide an impact statement. The court observed that Bohling's actions would have long-lasting repercussions on Maureen's family and noted the significant harm caused to all involved. The court did not erroneously exercise its discretion by considering this statement.

Finally, Bohling claims that statements by others during his sentencing unfairly prejudiced him. This argument is unsupported by the record. The circuit court's sentencing remarks reflect that it carefully considered the facts of the case in accordance with the controlling law and imposed a reasonable sentence, which it explained. Sentencing hearings routinely include victim statements that are critical of the defendant, and there is no indication that such statements improperly influenced the court's decision.

Therefore,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed.

See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals