

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 1, 2003

Cornelia G. Clark
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 No. 02-2106
STATE OF WISCONSIN**

Cir. Ct. No. 01-JV-266

**IN COURT OF APPEALS
DISTRICT III**

**IN THE INTEREST OF CESAR G.,
A PERSON UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

CESAR G.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Brown County:
RICHARD J. DIETZ, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Cesar G. appeals a dispositional order adjudicating him delinquent for first-degree sexual assault while aided by others and first-degree sexual assault of a child as party to a crime, contrary to WIS. STAT.

§§ 940.225(1)(c), 948.02(1) and 939.05.¹ Cesar argues the circuit court erred by denying his request to stay that part of the dispositional order requiring Cesar to register as a sex offender. We reject Cesar's arguments and affirm the order.

¶2 In October 2001, the State filed a delinquency petition against Cesar, then thirteen years old, charging him with first-degree sexual assault and first-degree sexual assault of a child, as party to a crime. After a fact-finding hearing, the juvenile court found Cesar delinquent on both counts. The court ultimately imposed and stayed a corrections placement, citing the seriousness of the offense. The court also ordered supervision with various conditions—including the requirement that Cesar register as a sex offender.² The court denied Cesar's request to stay the sex offender registration requirement.

¶3 Cesar intimates the circuit court denied his request because it did not believe it had the authority to stay the sex offender registration requirement. Cesar's brief thus argues the circuit court had the authority to stay that part of the dispositional order requiring Cesar to register as a sex offender. This argument has no support in the record. The circuit court assumed it had the authority to stay

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

² Sex offender registration is governed by WIS. STAT. § 301.45. WISCONSIN STAT. § 938.34(15m) provides in part:

[I]f the juvenile is adjudicated delinquent on the basis of any violation, or the solicitation, conspiracy or attempt to commit any violation, under ch. 940, 944 or 948 or ss. 943.01 to 943.15, the court may require the juvenile to comply with the reporting requirements under s. 301.45 if the court determines that the underlying conduct was sexually motivated ... and that it would be in the interest of public protection to have the juvenile report under s. 301.45.

the registration requirement. Rather, it exercised its discretion when it denied Cesar's request to stay the sex offender registration requirement. Therefore, we need not address whether a trial court has discretion to stay the sex offender registration requirement.

¶4 To the extent Cesar claims the circuit court erroneously exercised its discretion by refusing to stay the sex offender registration requirement, Cesar has waived this argument by raising it for the first time in his reply brief. *Northwest Wholesale Lumber v. Anderson*, 191 Wis. 2d 278, 294 n.11, 528 N.W.2d 502 (Ct. App. 1995). In any event, we conclude the circuit court properly exercised its discretion when it denied the request to stay the sex offender reporting requirement.

¶5 The appropriate disposition and placement of a juvenile is committed to the sound discretion of the circuit court. *State v. Terry T.*, 2002 WI App 81, ¶6, 251 Wis. 2d 462, 643 N.W.2d 175. We will sustain a circuit court's discretionary decision if the court logically interpreted the facts, applied the proper legal standard and used a demonstrated, rational process to reach a conclusion that a reasonable judge could reach. *Crawford County v. Masel*, 2000 WI App 172, ¶5, 238 Wis. 2d 380, 617 N.W.2d 188.

¶6 Here, although the State noted that sex offender registration had been imposed and stayed for Cesar's co-defendant, it opposed a stay in the present case. The court noted Cesar's age but emphasized that "this was a serious offense." The court further stated: "If Cesar were 17, on the facts of this case ... he would be looking at some period of incarceration. Certainly he would be looking at [registering] as a sexual offender." Ultimately, the court concluded: "Under the circumstances that will keep Cesar registered until he is 27 or 28 years

old. I don't think that that's unreasonable. I am not going to stay execution of that. He shall register as a sexual offender." It was within the circuit court's prerogative to emphasize the seriousness of the offense as the driving factor in denying Cesar's request. Because the circuit court properly exercised its discretion when it denied the request to stay the sex offender reporting requirement, we affirm the order.

By the Court.—Order affirmed.

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

