

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JANUARY 14, 1997

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

NOTICE

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

**Nos. 96-1801-CR
96-1802-CR
96-1803-CR**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

CHADRICK B. THOMPSON,

Defendant-Appellant.

APPEALS from judgments of the circuit court for Shawano County: EARL W. SCHMIDT, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Chadrick Thompson appeals the judgment sentencing him to eight years in prison following his no contest pleas to charges of burglary, driving a car without the owner's consent, felony escape and two counts of battery. He argues that the probation officer who authored the presentence report violated his due process right to a fair sentencing procedure

when she appended another presentence report prepared two years earlier. Because we conclude that this issue is not properly preserved for appeal, we affirm the judgments of conviction.

At the sentencing hearing, Thompson did not object to the court's consideration of the 1994 PSI. In fact, he argued that the family background information contained in that document mitigated his offenses. Thompson's failure to make a timely objection constitutes a waiver of his right to have this issue reviewed. See *United States v. Olano*, 507 U.S. 725, 731 (1993). Contemporaneous objection is required for several reasons. It leads to finality in criminal litigation, encourages the parties to view the trial as an event of significance that should be kept as error free as possible, and places the issue before the court where society's resources have been concentrated. See *State v. Davis*, 199 Wis.2d 513, 518-19, 545 N.W.2d 244, 246 (Ct. App. 1996).

Thompson argues that the error of appending a two-year-old PSI to the current PSI constitutes "plain error," allowing review despite his failure to object. "Plain error" exists when a fundamental or basic constitutional right has not been extended to the accused or when an obvious seriously prejudicial error affects the accused's substantial rights. See *State v. Gustafson*, 119 Wis.2d 676, 687-88, 350 N.W.2d 653, 659 (1984). Here, the error, if any, is not a fundamental error and does not affect Thompson's constitutional rights. Thompson argues that the probation officer violated § 972.15, STATS., by this use of the 1994 PSI. Even if that were true, the violation of this statute would not make the sentencing proceedings fundamentally unfair. None of the information contained in the 1994 PSI was untrue. The 1994 PSI could have been submitted upon order of the trial court. All of the information contained in the 1994 PSI could have been obtained from other sources and included in the 1996 PSI. The earlier PSI contained no unusual or inflammatory information and the parts that were specifically incorporated by reference were innocuous or arguably favorable to the defense. We conclude that Thompson's sentencing procedure did not violate any fundamental right. Therefore, any error in allowing use of a 1994 PSI did not constitute "plain error."

By the Court. — Judgments affirmed.

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