

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**January 18, 2017**

Diane M. Fremgen  
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. 2016AP338-CR**

**Cir. Ct. No. 2012CF5211**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**ANTONIO DION PUGH,**

**DEFENDANT-APPELLANT.**

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

Before Brennan, P.J., Kessler and Brash, JJ.

¶1 PER CURIAM. Antonio Dion Pugh appeals a judgment convicting him of one count of substantial battery, as a repeater, and an order denying his motion for postconviction relief. He claims that the circuit court erroneously exercised its sentencing discretion by failing to adequately explain why a near maximum term of incarceration consecutive to a reconfinement sentence was necessary. We affirm.

¶2 “Circuit courts are required to specify the objectives of the sentence on the record.” *State v. Gallion*, 2004 WI 42, ¶40, 270 Wis. 2d 535, 678 N.W.2d 197. “These objectives include, but are not limited to, the protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence to others.” *Id.* “Courts must also identify the factors that were considered in arriving at the sentence and indicate how those factors fit the objectives and influence the decision.” *Id.*, ¶43.

¶3 We review a circuit court’s sentence for a misuse of discretion. *State v. Mosley*, 201 Wis. 2d 36, 43, 547 N.W.2d 806 (Ct. App. 1996). A circuit court properly exercises its discretion if it engages in a process of reasoning based on the “facts that are of record or that are reasonably derived by inference from the record” and reaches a “conclusion based on a logical rationale founded upon proper legal standards.” *Gallion*, 270 Wis. 2d 535, ¶19 (citation omitted).

¶4 Pugh contends that the circuit court misused its sentencing discretion because it did not explain why it was necessary to impose a six-and-one-half-year sentence, out of a possible maximum sentence of seven and one-half years. He contends that the circuit court failed to explain why such a lengthy sentence was necessary to advance its objectives.

¶5 Pugh’s claim is belied by the record. In framing its sentence, the circuit court said that this was a serious offense; Pugh punched his girlfriend in the face fracturing her left orbital bone purportedly because she was not cooking food to his liking. The circuit court told Pugh that he had control issues with women and that his lengthy criminal record reflected poorly on his character. The court told Pugh that confinement was necessary to address his extensive treatment needs—impulsivity, the need to control women—and to punish him for his

actions. In the order denying Pugh’s postconviction motion, the circuit court elaborated: “[Pugh’s] display of violence was a bizarre and extreme response to a completely inoffensive incident and served to demonstrate his impulsive nature, his problems with anger management and his control issues with women.” The circuit court noted that Pugh “appeared to distance himself from any genuine responsibility for his actions by maintaining that it was an accident, which weighed against his character.” The circuit court also pointed out that Pugh committed this offense only four months after he was released from prison for a serious felony.

¶6 The supreme court explained in *Gallion* “that the exercise of discretion does not lend itself to mathematical precision.” *Id.*, ¶49. The *Gallion* court stated that it expected an explanation for the general range of a sentence imposed but did “not expect circuit courts to explain, for instance, the difference between sentences of 15 and 17 years” because “[t]he exercise of discretion, by its very nature, is not amenable to such a task.” Here, the circuit court explained the reasons it decided that Pugh should be incarcerated for a substantial period of time, including the sentencing objective that would be served by Pugh’s confinement. It was not required to explain with specificity why it chose a six-and-one-half-year sentence over a sentence that was slightly shorter or slightly longer. We reject Pugh’s argument that the circuit court misused its sentencing discretion.

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

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

