

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 12, 2002

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. 01-1298-CR
01-0279-CR
STATE OF WISCONSIN**

Cir. Ct. No. 99-CF-111

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

THOMAS M. CRIDER,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for St. Croix County: SCOTT R. NEEDHAM, Judge. *Affirmed.*

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

¶1 PER CURIAM. Thomas Crider appeals a judgment sentencing him to eighteen years in prison for sexually assaulting his twelve-year-old step-granddaughter. He also appeals an order denying his motion to reduce the sentence. He argues that his trial attorney was ineffective because he was

unprepared for the sentencing hearing, having discovered only five minutes before the hearing that Crider had informed the presentence reporter that he had also sexually abused his step-daughter twenty years earlier. Crider also argues that the trial court overlooked his successful pretrial treatment and that the eighteen-year sentence was unduly harsh. We reject those arguments and affirm the judgment and order.

¶2 The complaint alleged that Crider molested two of his step-grandchildren on separate occasions. Pursuant to a plea agreement, the State dropped one of the charges and it was read-in for sentencing purposes. The presentence investigation report (PSI) and the State recommended one year in jail as a condition of a lengthy probation. The PSI also stated that Crider admitted a previously undisclosed incident in which he sexually abused his step-daughter twenty years earlier. Crider contends that his attorney only briefly reviewed the PSI with him and should have requested a continuance to assess the effect of the disclosure. At the postconviction hearing, counsel testified that he did not request a continuance because he believed the additional information could be viewed favorably by the sentencing court inasmuch as it showed Crider's honest, good-faith approach to therapy sessions that had begun before the sentencing hearing.

¶3 To establish ineffective assistance of counsel, Crider must show that his counsel's performance was deficient in a manner that prejudiced the defense. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984). Crider has not established deficient performance or prejudice from his counsel's brief review of the PSI. Although Crider's trial attorney avoided specific mention of the incident with his step-daughter at the sentencing hearing, counsel alluded to his therapy sessions and his completion of the "social history" required by the program.

Crider has not identified any additional evidence or argument that counsel could have presented had his counsel spent more time reviewing the PSI.

¶4 Crider next argues that the court concluded at the postconviction hearing that Crider was not likely to reoffend. He contends that the court should have modified his sentence upon reaching that conclusion. The court reviewed the statistics presented at the postconviction hearing and acknowledged that they “weigh on the side of confidence by the public and confidence by the [victims’] family that Mr. Crider may not reoffend based on successful treatment.” The observation that he “may not reoffend” does not necessitate a sentence reduction. The sentencing court considered the serious nature of the offenses, the effect on the victims and their family, Crider’s character, the need to protect the public and the deterrent effect the sentence might have on other offenders. In effect, the court chose not to take a chance on Crider’s rehabilitation prospects at the expense of potential future victims. The court indicated that it believed there was no known cure for Crider’s behavior. The observation that statistics show that Crider “may not reoffend” did not provide the degree of certainty the trial court required.

¶5 Finally, the eighteen-year-sentence is not so excessive as to shock public sentiment. *See Ocanas v. State*, 70 Wis. 2d 179, 185, 233 N.W.2d 457 (1975). The court considered appropriate factors when imposing the sentence. The weight to be given those factors is a matter for the trial court’s discretion. *See Cunningham v. State*, 76 Wis. 2d 277, 282, 251 N.W.2d 65 (1977). The sentence imposed was less than half of the maximum allowed by law and falls within the ambit of the sentencing court’s wide discretion. *See State v. Guzman*, 166 Wis. 2d 577, 591, 480 N.W.2d 446 (1992). Because the sentence imposed was an appropriate exercise of the trial court’s discretion, we do not disturb it.

By the Court.—Judgment and order affirmed.

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

