

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**July 24, 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. 01-2761-CR  
STATE OF WISCONSIN**

**Cir. Ct. No. 00-CF-484**

**IN COURT OF APPEALS  
DISTRICT II**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**LARON J. WILLIAMSON,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Winnebago County: T.J. GRITTON, Judge. *Affirmed.*

Before Nettlesheim, P.J., Anderson and Snyder, JJ.

¶1 PER CURIAM. Laron J. Williamson appeals from the judgment of conviction entered against him and the order denying his motion for postconviction relief. The issue on appeal is whether the circuit court erroneously exercised its discretion when it sentenced Williamson. Williamson asserts that the circuit court relied on inaccurate information when it sentenced him. Because we

conclude that the circuit court did not erroneously exercise its discretion, we affirm.

¶2 Williamson pled no contest to one count of second-degree sexual assault of a child. The court sentenced him to five years of initial confinement and fifteen years of extended supervision. During the sentencing hearing, the court commented that the legislature considered this to be a very serious offense because Williamson faced a sentence of up to fifty years, thirty years of initial confinement and twenty years of extended supervision. The maximum sentence for the charge was actually a total of thirty years, with a maximum term of confinement of twenty years.

¶3 In his motion for postconviction relief, Williamson argued that he was entitled to be resentenced because the circuit court had relied on the misstated maximum penalty for the crime charged when it sentenced him. The circuit court denied the motion, noting that its remark, although a misstatement, was intended to show the seriousness with which the legislature viewed the crime charged. The court further noted that this was true even under the correct, but lesser, maximum penalty. Williamson appeals.

¶4 Sentencing lies within the sound discretion of the trial court, and a strong policy exists against appellate interference with the discretion. *State v. Mosley*, 201 Wis. 2d 36, 43, 547 N.W.2d 806 (Ct. App. 1996). The trial court is presumed to have acted reasonably and the defendant has the burden to show unreasonableness from the record. *Id.* The primary factors to be considered by the trial court in sentencing are the gravity of the offense, the character of the offender and the need for the protection of the public. *State v. Harris*, 119 Wis. 2d 612, 623, 350 N.W.2d 633 (1984). The weight to be given the various

factors is within the trial court's discretion. *Cunningham v. State*, 76 Wis. 2d 277, 282, 251 N.W.2d 65 (1977). Further, a defendant has a due process right to be sentenced only upon accurate information. *State v. Spears*, 227 Wis. 2d 495, 508, 596 N.W.2d 375 (1999).

¶5 We conclude that Williamson is not entitled to be resentenced. The transcript of the sentencing hearing reveals that the circuit court thoroughly analyzed all of the relevant factors when it sentenced Williamson. The court considered the offense, Williamson's character and history, and the need to protect the public. The court's misstatement about the potential maximum length of sentence facing Williamson did not have a significant affect on the sentence actually imposed. The court was merely indicating the seriousness with which the legislature and society view this crime. The inference that the legislature considers the crime to be serious remains whether the maximum penalty is fifty years or thirty years.

¶6 Williamson argues that if we conclude that the court did not rely on this information, an impossible burden will be created and defendants will never be able to establish that a circuit court relied on inaccurate information. Our decision in *State v. Anderson*, 222 Wis. 2d 403, 588 N.W.2d 75 (Ct. App. 1998), however, shows that Williamson's concern is unfounded. In *Anderson*, the defendant argued that the trial court had relied on inaccurate information in a presentence investigation report when it sentenced him. *Id.* at 407. When deciding Anderson's motion for postconviction relief, the trial court said that it had not relied on that information. *Id.* We concluded that the court's remarks at sentencing plainly established that it had relied on the inaccurate information, and we concluded that Anderson had been prejudiced by that reliance. *Id.* at 410.

¶7 We have applied the same analysis to Williamson’s case, but do not reach the same conclusion. Viewing the circuit court’s remarks at the sentencing hearing in their entirety, we are not persuaded that the circuit court’s sentence was premised on a fifty-year maximum sentence for the crime. For the reasons stated, the judgment and order of the circuit court are affirmed.

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

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

