

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 23, 2011

A. John Voelker
Acting 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. 2010AP398-CR

Cir. Ct. No. 2008CF4200

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JAMES EARL LOUIS,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: DANIEL L. KONKOL, Judge. *Affirmed.*

Before Curley, P.J., Fine and Brennan, JJ.

¶1 PER CURIAM. James Earl Louis appeals from a judgment convicting him of three counts of first-degree sexual assault of a child. See WIS. STAT. § 948.02(1)(e). He also appeals an order denying his motion for

postconviction relief. He argues that the circuit court misused its sentencing discretion. We affirm.

¶2 Louis was charged with four counts of sexual assault, two against his girlfriend's sons, who were seven and ten when the assaults occurred, one against his nephew, who was ten when Louis assaulted him, and one against his niece, who was between twelve and fifteen when she was assaulted. Pursuant to a plea bargain, Louis pled guilty to the three counts of sexual assault against the three boys, and the charge stemming from the assault on his niece was dropped. The circuit court imposed consecutive terms on each count of twenty-five years of initial confinement and six-and-one-half years of extended supervision, for a total of seventy-five years of initial confinement and nineteen-and-a-half years of extended supervision.

¶3 Our standard of review is well settled. Sentencing lies within the circuit court's discretion, and appellate review is limited to considering whether discretion was erroneously exercised. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 549, 678 N.W.2d 197, 203. The circuit court should specify the objectives of the sentence during the sentencing hearing, which include, but are not limited to, "the protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence to others." *Id.*, 2004 WI 42, ¶40, 270 Wis. 2d at 556–557, 678 N.W.2d at 207. Additionally, the circuit court must explain the "linkage" between the sentencing objectives and the sentence imposed. *Id.*, 2004 WI 42, ¶46, 270 Wis. 2d at 560, 678 N.W.2d at 208. The circuit court is not required, however, to explain a sentence with mathematical precision. *Id.*, 2004 WI 42, ¶49, 270 Wis. 2d at 562, 678 N.W.2d at 209. Rather, we expect "an explanation for the general range of the sentence imposed." *Ibid.*

¶4 Pointing out that he will not be released from the initial confinement portion of the sentence until he is 113, Louis argues that the circuit court failed to adequately explain why a confinement term that exceeds his life expectancy is necessary to satisfy the circuit court’s sentencing objectives. We disagree.

¶5 The circuit court began its sentencing comments by noting that these were very serious charges, eclipsed only by homicide in severity. The circuit court placed heavy emphasis on the fact that Louis presented a grave risk to the community, in particular children, and explained that a very lengthy period of confinement was “absolutely necessary to protect the public.” The circuit court discussed in detail the devastating impact the assaults had on the children, destroying the children’s sense of safety and trust, stigmatizing them, harming their families, and causing one of the children to have a severe problem with aggression that has caused him problems at school and in the community. The circuit court decided that the damaging effect the assaults had on the victims called for a very serious penalty, and that each sentence needed to be served consecutively because each crime, and each victim, were separate.

¶6 The circuit court’s sentencing comments show that its primary sentencing objectives were to protect the public from Louis and to punish Louis for the grave harm he caused each child. The circuit court’s sentence accomplishes those objectives by keeping Louis confined so that he is unable to assault other children and by providing separate terms for the crimes he committed against each child. The circuit court did not have an obligation to state exactly why the objectives it considered translated into a specific number of years of imprisonment. See *State v. Fisher*, 2005 WI App 175, ¶¶21-22, 285 Wis. 2d 443, 447–448, 702 N.W.2d 56, 63. Louis’s sentence fits within the framework of the

objectives the court hoped to achieve in sentencing and is therefore a proper exercise of discretion.

¶7 Louis next argues that the sentence was unduly harsh and excessive. “A sentence is unduly harsh when it is ‘so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.’” *State v. Prineas*, 2009 WI App 28, ¶29, 316 Wis. 2d 414, 436, 766 N.W.2d 206, 217 (citation omitted). Louis repeatedly committed first-degree sexual assault against three young boys who trusted him, two of whom viewed him as their father, causing them extreme psychological and emotional harm, as well as physical damage. A twenty-five year term of confinement, with six and one-half years of extended supervision, on each count, imposed consecutively, is not excessive in light of the facts presented here, even though taken together the sentences will likely cause Louis to spend the rest of his life in prison.

By the Court.—Judgment and order affirmed.

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

