

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

September 27, 1995

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.

**No. 94-2933-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**WILLIAM C. BUBOLZ,**

**Defendant-Appellant.**

APPEAL from an order of the circuit court for Manitowoc County:  
DARRYL W. DEETS, Judge. *Affirmed.*

Before Anderson, P.J., Brown and Nettesheim, JJ.

PER CURIAM. William C. Bubolz appeals pro se from an order denying his motion for sentence modification. Bubolz was convicted of arson and criminal damage to property. On appeal, Bubolz argues that the trial court misused its discretion when it imposed a fifteen-year sentence for an arson he committed when he was fourteen years old. We disagree and affirm.

A March 26, 1993, information charged Bubolz with: (1) arson of the Reedsville High School on or about July 20, 1987; (2) arson of the Reedsville

Cooperative Furniture Store on or about July 27, 1991; and (3) arson of a rest room at the Village of Reedsville Fireman's Park on or about August 3, 1991. As part of a plea agreement, Bubolz entered a no contest plea to count one, count two was dismissed and read in for dispositional purposes, and count three was amended to a lesser charge of criminal damage to property, to which Bubolz pled no contest. The State agreed to recommend a sentence of no more than thirty years on these charges. In accepting Bubolz's no contest pleas, the trial court advised Bubolz that he faced a maximum possible prison term of forty-five years. The trial court later sentenced Bubolz to a fifteen-year term for arson and a five-year consecutive term for criminal damage to property.

On appeal, Bubolz argues that his sentence for the 1987 Reedsville High School arson was too severe given that he committed the crime when he was fourteen years old. At the time he was convicted and sentenced, Bubolz was twenty years old. Bubolz contends that had this matter been handled when he was a juvenile, he would have received a less severe sanction.

We reject this argument. It is the age of the defendant at the time that he or she is charged which determines the jurisdiction of the juvenile court, regardless of the defendant's age at the time that he or she committed the alleged offense. *State v. Annala*, 168 Wis.2d 453, 471, 484 N.W.2d 138, 145 (1992). It was not until February 1993 that Bubolz admitted to setting fire to the high school, the furniture store and the park rest room. He was charged with those crimes in March 1993 and sentenced in July 1993. Bubolz was charged and sentenced as an adult because that is when his involvement in the crimes became clear.

In sentencing Bubolz, the trial court considered his history of criminal offenses, including his criminal activity as a juvenile. The trial court found that Bubolz had shown no consideration for the consequences of his criminal conduct. The trial court considered Bubolz's character and the need to protect the public given his extensive prior criminal record. The trial court noted that Bubolz was only fourteen when he set fire to the high school, causing in excess of \$1 million in damage. Contrary to Bubolz's argument on appeal, the trial court acknowledged that he had been truthful with the police and that he had assisted them in solving a number of other crimes.

We review whether the trial court misused its sentencing discretion. *State v. J.E.B.*, 161 Wis.2d 655, 661, 469 N.W.2d 192, 195 (Ct. App. 1991), *cert. denied*, 503 U.S. 940 (1992). We presume that the trial court acted reasonably, and the defendant must show that the trial court relied upon an unreasonable or unjustifiable basis for its sentence. *Id.*

The primary factors to be considered by the trial court in imposing a sentence are the gravity of the offense, the offender's character and the need to protect the public. *State v. Borrell*, 167 Wis.2d 749, 773, 482 N.W.2d 883, 892 (1992). The weight given to each of the sentencing factors is within the sentencing judge's discretion. *J.E.B.*, 161 Wis.2d at 662, 469 N.W.2d at 195. We conclude that the trial court considered the proper factors and properly exercised its discretion in sentencing Bubolz. *See State v. Teynor*, 141 Wis.2d 187, 219-20, 414 N.W.2d 76, 88 (Ct. App. 1987). Bubolz has not shown that the trial court had an unjustifiable basis for its sentence.

Finally, we note that the trial court sentenced Bubolz to twenty years in prison, less than one-half of the maximum possible sentence. This sentence, under the circumstances, does not shock public sentiment. *See id.* at 220, 414 N.W.2d at 88.

*By the Court.* – Order affirmed.

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