

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

OCTOBER 17, 1995

NOTICE

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(1), STATS.

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

Nos. 94-3426-CR
94-3427-CR

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT III

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

RICKY L. AMRINE,

Defendant-Appellant.

APPEAL from judgments of the circuit court for Brown County:
N. PATRICK CROOKS, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Ricky Amrine appeals the sentence he received for his conviction of two counts of first-degree sexual assault of a child and one count of second-degree sexual assault, both as a repeater, having pleaded no contest. The victims were two and six years old. The trial court departed from the sentencing guidelines, imposing maximum, consecutive sentences on each count, for a total of seventy-six years. Amrine argues that the trial court overlooked and underweighted mitigating factors, such as his remorse, his high level of cooperation with the State, and the presentence investigation report's

recommendation of two thirty-year consecutive sentences and a stayed, sixteen-year consecutive sentence. He also argues that the trial court overweighted and misconcerned itself with the potential timetable for Amrine's parole release, thereby essentially interfering in matters that the legislature has entrusted to the parole commission. We reject these arguments and therefore affirm Amrine's sentence.

The trial court's sentencing decision was discretionary. *State v. Macemon*, 113 Wis.2d 662, 667-68, 335 N.W.2d 402, 405-06 (1983). Sentencing courts abuse their discretion whenever they give too much weight to one factor without regard to contravening considerations. *Harris v. State*, 75 Wis.2d 513, 518, 250 N.W.2d 7, 10 (1977). However, sentencing courts have discretion to determine the weight to give to each of these factors. *Ocanas v. State*, 70 Wis.2d 179, 185, 233 N.W.2d 457, 461 (1975). Sentencing courts may base their sentences on any of the factors after all have been reviewed. *Anderson v. State*, 76 Wis.2d 361, 366-67, 251 N.W.2d 768, 771 (1977). Relevant sentencing factors include the gravity of the offense, the protection of the public, the rehabilitative needs of the defendant, and the interests of deterrence. *State v. Sarabia*, 118 Wis.2d 655, 673-74, 348 N.W.2d 527, 537 (1984). Like other discretionary decisions, sentences must have a reasonable basis in the record and demonstrate a logical process of reasoning based on the facts of record and proper legal standards. *McCleary v. State*, 49 Wis.2d 263, 277, 182 N.W.2d 512, 519-20 (1971).

Among other factors, the trial court mentioned the danger Amrine posed to the community, the vulnerability of the victims, and the permanent, venereal disease that the two-year-old victim had contracted. We agree with the trial court that these and other factors the trial court surveyed put Amrine's case outside the sentencing guidelines. The trial court quoted substantial material from the PSI, thereby finding the information significant. This information included statements by the victims' parents. As a parent of the two-year-old victim noted, every day that Amrine spends in the Wisconsin State Prisons the victim will spend with venereal disease. The trial court also quoted a letter from a doctor, who stated that the victims will suffer lifelong emotional harm and that the two-year-old victim's disease requires medical treatment that exposes her to serious additional health risks. This information demonstrated the substantial danger Amrine poses to children; it also helped to indicate his degree of culpability. The trial court noted that Amrine had grown

progressively more assaultive and that the State had dropped additional sexual assault charges against him pertaining to his daughter. Near the end of its findings, the trial court concluded that the public's protection was the overriding consideration.

These and other factors furnished the trial court substantial discretionary grounds for imposing a seventy-six year sentence. The sentence was proportionate to Amrine's criminal record, his past violent behavior, his dangerousness to children, his need for treatment, the interests of deterrence, the public's need for protection, the interests of punishment, and Amrine's level of culpability in these crimes. Last, we see nothing in Amrine's remorse, his cooperation with prosecutors, the PSI recommendation, or the trial court's analysis of potential parole dates that requires resentencing. The trial court gave a well balanced analysis of the PSI and potential parole dates that was fair to Amrine. The trial court also could reasonably conclude that Amrine's remorse and cooperation did not atone for his crimes in a material way. In sum, the trial court properly exercised its discretion.

By the Court. – Judgments affirmed.

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