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DISTRICT II

February 5, 2020

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You are hereby notified that the Court has entered the following opinion and order:

2018AP2270-CR State of Wisconsin v. Michael A. Langston (L.C. #2017CF42)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Michael A. Langston appeals from a judgment of conviction and an order denying his postconviction motion. He contends that the circuit court erroneously exercised its discretion at sentencing. Based upon our review of the briefs and record, we conclude at conference that this

case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

Langston was convicted following a guilty plea to first-degree reckless homicide. He was accused of causing the death of another man by delivering heroin to him. The circuit court sentenced Langston to twelve years of initial confinement and eight years of extended supervision.

Langston filed a postconviction motion seeking resentencing. He complained that the circuit court erroneously exercised its discretion by failing to adequately explain its sentence. The court denied the motion, noting that the transcript of the sentencing hearing did not leave “any doubt as to what drove the sentence.” This appeal follows.

Sentencing is left to the discretion of the circuit court, and appellate review is limited to determining whether there was an erroneous exercise of discretion. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. We afford a strong presumption of reasonability to the circuit court’s sentencing determination because that court is best suited to consider the relevant factors and demeanor of the defendant. *State v. Ziegler*, 2006 WI App 49, ¶22, 289 Wis. 2d 594, 712 N.W.2d 76.

To properly exercise its discretion, a circuit court must provide a rational and explainable basis for the sentence. *State v. Stenzel*, 2004 WI App 181, ¶8, 276 Wis. 2d 224, 688 N.W.2d 20. The primary sentencing factors that a court must consider are the gravity of the offense, the

¹ All references to the Wisconsin Statutes are to the 2017-18 version.

character of the defendant, and the need to protect the public. *Ziegler*, 289 Wis. 2d 594, ¶23. The court must also “specify the objectives of the sentence on the record, which include, but are not limited to, protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence of others.” *Stenzel*, 276 Wis. 2d 224, ¶8.

Here, the circuit court addressed the serious nature of Langston’s crime; his character, which included a criminal record; and the need to protect the public. Its sentencing remarks² made clear that protection of the community and deterrence of others were its main objectives and that it believed a “very stern sentence” was warranted. Although the court did not articulate why it imposed twelve years of initial confinement rather than a shorter period recommended by the State,³ a proper exercise of discretion does not require a court to justify the sentence with mathematical precision. *Gallion*, 270 Wis. 2d 535, ¶49. In any event, on this record, we conclude that the court adequately explained its sentence and properly denied Langston’s postconviction motion.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

² For example, the circuit court observed that “the war on drugs needs to be fought aggressively,” and that “stern sentences save lives.” It explained, “if you have stiff sentences for people, that sends a message to other people. I’m a firm believer in that.” The court further explained, “[w]hen sentences are stern and enforcement is rigorous, the dealers are driven underground,” and “kids can’t get started on heroin.” Additionally, the court noted that when drugs are hard to obtain or expensive, people who are thinking of dealing or using drugs “think about the ugly consequences that can befall them.” People then “might think twice about doing it, and that saves lives.”

³ The presentence investigation report recommended nine to ten years of initial confinement. The prosecutor, meanwhile, recommended six years of initial confinement.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals