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**DISTRICT II**

May 22, 2013

To:

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

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2012AP1461-CR                      State of Wisconsin v. Kevin C. Conry (L.C. # 2011CF81)

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

Kevin C. Conry appeals from a judgment of conviction and an order denying his motion for postconviction relief. Conry 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 (2011-12).<sup>1</sup> We affirm the judgment and order of the circuit court.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version.

Conry was convicted following a guilty plea to two counts of second-degree sexual assault of a child and one count of use of a computer to facilitate a child sex crime. The charges stemmed from a sexual relationship Conry had with a fifteen-year-old girl he met online. The circuit court sentenced Conry to a total of fifteen years of initial confinement and thirty years of extended supervision. Conry subsequently filed a motion for postconviction relief, arguing that the court erroneously exercised its discretion at sentencing. The court denied his motion. 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. It must 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. *Id.* The primary sentencing factors that a court must consider are the gravity of the offense, the character of the defendant, and the need to protect the public. *Ziegler*, 289 Wis. 2d 594, ¶23. The weight to be given to each sentencing factor is within the discretion of the court. *Id.*

On appeal, Conry contends that the circuit court erroneously exercised its discretion at sentencing. Specifically, he complains that the court did not adequately explain the sentence it imposed so as to allow meaningful appellate review.

Reviewing the circuit court's remarks, we are satisfied that it provided a rational and explainable basis for the sentence imposed. Here, the court explicitly considered the gravity of the offense, the character of the defendant, and the need to protect the public. In doing so, it explained why it rejected probation and why it was imposing a sentence that would likely result in supervision for the rest of Conry's life. Although the court did not articulate why Conry received a total of fifteen years of initial confinement, as opposed to a shorter or longer term, 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 the basis of this record, we conclude that the court properly exercised its discretion in sentencing Conry and in denying his motion for postconviction relief.

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.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*