

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 17, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

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.

No. 00-1185-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

PETER J. DRULEY,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Jefferson County: JOHN M. ULLSVIK, Judge. *Affirmed.*

Before Roggensack, Deininger and Lundsten, JJ.

¶1 PER CURIAM. Peter J. Druley appeals a judgment of conviction and an order denying his postconviction motion. The issue is whether the court erroneously exercised its sentencing discretion. We conclude it did not and affirm.

¶2 After a jury trial, Druley was convicted of one count of homicide by intoxicated use of a motor vehicle, WIS. STAT. § 940.09(1)(a) (1995-96).¹ The jury was apparently satisfied that Druley was the driver of a car that collided with another vehicle, although Druley testified that he was asleep in the car at the time and that the driver was actually another person whom he did not know well enough to identify. The court sentenced Druley to the maximum ten-year prison term. The court denied Druley's postconviction motion requesting a reduced sentence. On appeal, he argues that the court erroneously exercised its discretion by placing undue emphasis on its belief that Druley testified falsely at trial and was still refusing to admit his guilt.

¶3 The standards which apply to our review of sentences are well-established and need not be repeated in detail here. They are thoroughly summarized in *State v. Thompson*, 172 Wis. 2d 257, 263-65, 493 N.W.2d 729 (Ct. App. 1992). When imposing sentence, a trial court must consider the gravity of the offense, the offender's character, and the public's need for protection. *Id.* at 264.

¶4 In this case, the court noted that there was no dispute that this was a serious offense. In considering Druley's character, the court said that the jury must not have believed Druley's testimony at trial that he was not the driver and that the court did not believe it either. The court reasoned that this false testimony showed poor character on Druley's part. Further, the court stated that his false testimony and continued failure to admit guilt at sentencing indicated his unwillingness to accept responsibility for this crime and increased "the possibility of the public being exposed to such driving again by someone in denial." The court also noted Druley's

¹ Druley was also convicted of obstructing an officer, but that sentence is not at issue in this appeal.

one prior offense of operating while intoxicated, and that, while released on bail in this case, he was seen violating conditions of bail on one occasion by being in a bar.

¶5 Based on the above considerations and the wide latitude of sentencing discretion, we conclude that the court did not erroneously exercise its discretion in this case.

By the Court.—Judgment and order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5. (1999-2000).

