

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**December 13, 2007**

David R. Schanker  
Clerk of Court of Appeals

**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.

**Appeal No. 2006AP2355-CR**

**Cir. Ct. No. 1998CF271**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**ANDREW M. OBRIECHT,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Dane County: ROBERT DE CHAMBEAU, Judge. *Affirmed.*

Before Higginbotham, P.J., Vergeront and Bridge, JJ.

¶1 PER CURIAM. Andrew Obrieht appeals a judgment sentencing him after revocation of his probation. He also appeals an order denying his motion for postjudgment relief. Obrieht contends: (1) the judgment of conviction underlying the probation revocation in this case must be vacated for

want of subject matter jurisdiction; (2) delays in the litigation of this case have violated his due process rights; and (3) the circuit court's sentence is too harsh. We affirm.

¶2 Obriecht first argues that the 1998 complaint charging him with attempted sexual assault of a child is jurisdictionally defective because it failed to set forth the elements of attempt. Obriecht cites no authority for the proposition that the failure to specifically identify the elements of the crime, or in this case the elements of attempt, goes to the circuit court's subject matter jurisdiction to hear the complaint, and we reject the argument on that basis. To the extent that Obriecht is attempting to raise other challenges to the adequacy of the complaint that do not involve subject matter jurisdiction, those issues are not now before us. It is well established that "[w]hen probation is revoked, there can be no challenge to the underlying conviction; appellate review is limited to the sentencing after revocation." *State v. Bush*, 2004 WI App 193, ¶13, 276 Wis. 2d 806, 688 N.W.2d 752.

¶3 Obriecht next argues that his due process rights were violated by various delays in his appeal from the sentence imposed after revocation of his probation. However, Obriecht has not specified how the delay hampered him in being able to locate witnesses that would assist him at sentencing. We reject this argument because it is inadequately developed. *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (we will not consider inadequately developed arguments).

¶4 Obriecht next argues that the circuit court's decision to impose a seven-year term of imprisonment for attempted second-degree sexual assault of a child is unduly harsh. We will conclude that a circuit court erroneously exercised

its sentencing discretion “only where the sentence is so excessive and unusual and so disproportionate to the offense committed as to shock public sentiment and violate the judgment of reasonable people concerning what is right and proper under the circumstances.” *State v. Stenzel*, 2004 WI App 181, ¶21, 276 Wis. 2d 224, 688 N.W.2d 20 (citation omitted). While Obrieht was on probation for this conviction, he committed a series of crimes and continually refused to take responsibility for his actions. Based on his conduct while on probation and the seriousness of the offense, the court concluded that a seven-year indeterminate prison term was necessary to protect the community and to allow Obrieht to access the treatment he needs. The circuit court’s sentencing decision was a proper exercise of discretion.

*By the Court.*—Judgment and order affirmed.

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

