

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 9, 2008

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. 2008AP779-CR

Cir. Ct. No. 2002CF4421

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JOSEPH B. CURTIS,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
TIMOTHY G. DUGAN and DENNIS P. MORONEY, Judges.¹ *Affirmed.*

Before Curley, P.J., Fine and Kessler, JJ.

¹ Honorable Timothy G. Dugan presided at the trial and entered the judgment of conviction. The Honorable Dennis P. Moroney heard the postconviction motion and entered the order denying postconviction relief.

¶1 PER CURIAM. Joseph B. Curtis appeals from the order for reconfinement after revocation of extended supervision, and the order denying his motion for postconviction relief. He argues that the circuit court erred when it sentenced him because it did not give a reasoned explanation for the sentence it imposed. Because we conclude that the circuit court properly exercised its discretion when it imposed the sentence after revocation of extended supervision, and when it denied Curtis’s motion for postconviction relief, we affirm the orders of the circuit court.

¶2 In 2002, Curtis pled guilty to one count of operating a vehicle without the owner’s consent and one count of bail jumping. The court imposed and stayed a sentence of three years of initial confinement and two years of extended supervision, and placed him on probation. His probation was subsequently revoked, and he served his term of initial confinement. In 2006, he was released on extended supervision. In 2007, his extended supervision was revoked, and he went before the court for a reconfinement hearing. At the hearing, the State recommended that Curtis be sentenced to more than six months but less than one year. Defense counsel asked that the court sentence him to six months. The court sentenced him to the total amount of time remaining on his sentence, two years and five days.

¶3 Curtis then filed a motion for postconviction relief arguing that the court had not adequately explained its reasons for reconfining Curtis for the maximum amount of time. The circuit court denied the motion, concluding that the reconfinement court had properly exercised its discretion. We agree.

¶4 “A reconfinement hearing is certainly akin to a sentencing hearing and, therefore, both are reviewed on appeal to determine if there has been an

erroneous exercise of discretion.” *State v. Brown*, 2006 WI 131, ¶20, 298 Wis. 2d 37, 725 N.W.2d 262. We will not reverse the sentence as long as the reconfinement court considered the appropriate factors and imposed a sentence that was within the statutory limits. *Id.*, ¶22. In making the reconfinement decision, the circuit court should consider the nature and severity of the original offense, the length of sentence “necessary to protect the public from the risk of further criminal activity,” and “the defendant’s record, attitude, and capacity for rehabilitation, and the rehabilitative goals to be accomplished by imprisonment for the time period in question in relation to the time left on the violator’s original sentence.” *Id.*, ¶¶34, 36. “These factors are not a mandatory checklist, and we do not hold that a circuit court must examine each factor on the record in every case.” *Id.*, ¶37. The circuit court must instead “identify the general objectives of greatest importance.” *Id.*, ¶39. “[I]t is within the circuit court’s discretion to decide what weight should be given to a particular factor in a particular case.” *Id.*

¶5 Curtis now argues that the reconfinement court did not explain why such a lengthy sentence was the minimum amount necessary consistent with the primary sentencing factors. Specifically, Curtis argues that the court did not explain why Curtis should not be on extended supervision again.

¶6 The record demonstrates, however, that the circuit court considered the appropriate factors before imposing the post-revocation reconfinement sentence. The court considered the nature of the offense for which Curtis was originally convicted. The court considered that Curtis initially was placed on probation, that was revoked, then he was placed on extended supervision, and that was revoked as well. The court also noted that the original sentencing court had decided to give Curtis “one last chance,” yet he still had failed to follow the rules. The court concluded that the community needed to be protected from that type of

behavior. The court's emphasis on Curtis's failure to succeed on his previous terms of probation and extended supervision supports its decision to impose the maximum confinement. We conclude that the circuit court properly exercised its discretion, and we affirm the orders of the circuit court.

By the Court.—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2005-06).

