

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 15, 2010

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. 2009AP1072-CR

Cir. Ct. No. 2008CF2356

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

RAYMON C. MAYFIELD,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: PATRICIA D. MCMAHON, Judge. *Affirmed.*

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

¶1 PER CURIAM. Raymon C. Mayfield appeals a judgment convicting him of felony murder/substantial battery. He also appeals an order denying his postconviction motion. Mayfield challenges his sentence, arguing that the court should have given more weight to the fact that the victim, Anthony Hess,

taunted him with racial slurs. He also argues that the sentence was disproportionate to the crime. We affirm.

¶2 Mayfield and Hess were drinking together late into the evening after helping take down a carnival for which they both worked. Mayfield, who is African American, beat Hess, who is Caucasian, after Hess apparently taunted him repeatedly, calling him a “nigger” and other derogatory names. Hess died from his injuries. Mayfield pled guilty to felony murder/substantial battery and was sentenced to fifteen years of imprisonment, with ten years of initial confinement and five years of extended supervision.

¶3 Mayfield first argues that his sentence should be modified because the sentencing court did not adequately take into consideration the fact that Hess provoked him by making derogatory racial slurs. Mayfield contends that Hess’s actions were tantamount to a hate crime. “[T]he weight that is attached to a relevant factor in sentencing is ... within the wide discretion of the sentencing court.” *State v. Stenzel*, 2004 WI App 181, ¶16, 276 Wis. 2d 224, 688 N.W.2d 20. The sentencing transcript shows that the circuit court was well aware of the circumstances of this crime, including the repeated racial slurs Hess directed at Mayfield. The complaint also contained a detailed description of Hess’s provocative actions. In framing its sentence, the circuit court considered these matters and any mitigating effect they may have had on Mayfield’s commission of the crime. Because the circuit court considered Hess’s provocation of Mayfield and assigned to it the significance that it saw fit, we reject Mayfield’s argument that the circuit court misused its discretion.

¶4 Mayfield next argues that the sentence was disproportionate to the crime. A sentence is excessive or unduly harsh when it is “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. Grindemann, 2002 WI App 106, ¶31, 255 Wis. 2d 632, 648 N.W.2d 507 (citation omitted). Mayfield chose to confront Hess and killed Hess by kicking and beating him to death. This was a senseless and brutal crime. Mayfield’s ten-year term of initial confinement and five-year term of extended supervision is not disproportionate to the crime.

By the Court.—Judgment and order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2007-08).

