

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

SEPTEMBER 10, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-0817-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

RICHARD A. COOPER,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Oneida County:
MARK A. MANGERSON, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Richard Cooper appeals his convictions for misdemeanor marijuana possession, misdemeanor drug paraphernalia possession, and felony marijuana delivery, after a trial by jury. Cooper argues that the trial court improperly refused to examine information concerning a confidential informant on an in camera basis for the purpose of addressing Cooper's request to disclose the informant's identity. Cooper also argues that

we should review the trial court's decision de novo. In response, the State argues that the trial court made a discretionary decision to which we owe deference and that the court properly exercised its discretion. We reject Cooper's arguments and affirm his convictions.

Cooper relies on *State v. Shiffra*, 175 Wis.2d 600, 499 N.W.2d 719 (Ct. App. 1993), for the proposition that de novo review is the applicable standard on requests to conduct in camera examinations. While *Shiffra* is not controlling, and dealt with a request to disclose a sexual assault victim's mental health records, not a request to disclose a confidential informant's identity, even when we apply *de novo* review, there is no error.

As the trial court noted, Cooper provided no information on how an informant may have assisted in the suspected entrapment. At trial, defendants claiming entrapment have the burden to show as a preliminary matter that someone induced them to commit a crime. *State v. Hilleshiem*, 172 Wis.2d 1, 8, 492 N.W.2d 381, 384 (Ct. App. 1992). We believe the same preliminary showing applies to someone requesting an in camera inspection of records concerning a confidential informant with a possible entrapment connection. See *Shiffra*, 175 Wis.2d at 605, 499 N.W.2d at 721 (in camera inspection requires preliminary showing of materiality). Here, Cooper admitted through his trial counsel that he had no information to indicate how anyone may have compelled him to commit the drug offenses. He stated only that he did not know the identity of the informant. The trial court had no obligation to conduct the in camera examination unless Cooper furnished evidence of entrapment and of a connection to a suspected informant. Cooper did not furnish a sufficient showing to require an in camera examination.

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.