

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

May 8, 1997

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. 97-0696-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

REGINALD J. BASKIN,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Rock County:
EDWIN C. DAHLBERG, Judge. *Affirmed.*

Before Dykman, P.J., Vergeront and Deininger, JJ.

PER CURIAM. Counsel for Reginald Baskin has filed a no merit report pursuant to Rule 809.32, STATS. Baskin has not responded to the report. After reviewing the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that any argument challenging Baskin's conviction lacks arguable merit.

Police officers executed a search warrant on Baskin's home and discovered a substantial amount of heroin divided into small packages, and a lesser amount of marijuana. Based on the drugs and other evidence seized during the search, the State charged Baskin with four felony drug counts and misdemeanor possession of marijuana. Pursuant to a plea bargain, Baskin entered an *Alford* plea to possessing between ten and fifty grams of heroin within 1,000 feet of a school, with intent to deliver. In exchange for the plea, the State agreed to dismiss and read in the additional four counts. The trial court accepted the plea and sentenced Baskin to a three-year prison term and a \$1,000 fine.

Baskin knowingly and voluntarily entered his plea. Before accepting the plea, the court established that Baskin understood and waived his rights to a jury trial, confrontation and protection against self-incrimination. The court adequately informed Baskin of the elements of the crime charged and the potential punishment. The court also properly inquired as to Baskin's ability to understand the proceedings, and the record independently establishes that he understood the proceedings. The State did not improperly induce Baskin to enter his plea, and Baskin exercised his free will in accepting the plea bargain. Finally, as required for *Alford* pleas, the court determined that the State had strong evidence of guilt. *See North Carolina v. Alford*, 400 U.S. 25, 37-38 (1970). Although Baskin denied any intent to deliver the heroin, the court, and a jury, could reasonably infer that intent from the amount of heroin seized and manner in which it was packaged. The court therefore complied with the requirements set forth in *State v. Bangert*, 131 Wis.2d 246, 261-62, 389 N.W.2d 12, 21 (1986), to insure a knowing and voluntary plea.

The trial court properly sentenced Baskin. The trial court has wide discretion in sentencing. *See State v. Krueger*, 119 Wis.2d 327, 336, 351 N.W.2d

738, 743 (Ct. App. 1984). We presume that the trial court acted properly in sentencing the defendant, and the burden is on the defendant to prove otherwise. *Id.* In sentencing Baskin, the court was compelled to impose a prison sentence of at least three years and a fine of at least \$1,000 unless it found that a lesser sentence or probation would serve the best interest of the community and the public would not be harmed. Section 161.438, STATS., 1993-94. Here, the trial court found that a lesser sentence would not be in the community's best interest because it would unduly depreciate the crime of delivering heroin. In so doing, the trial court considered the detrimental effect on the community of drug addiction and drug-related crime. These were proper factors for the trial court to consider and reasonably support the decision not to reduce the presumptive minimum sentence.

Upon our independent review of the record as mandated by *Anders*, we conclude that there are no other potentially meritorious issues and that any further proceedings would be frivolous and without arguable merit. Accordingly, we affirm the judgment of conviction and relieve Baskin's counsel of any further representation of him in this appeal.

By the Court.—Judgment affirmed.

