COURT OF APPEALS
DECISION
DATED AND FILED

October 20, 2005

Cornelia G. Clark
Clerk of Court of Appeals

Appeal Nos. 2004AP2898-CR
2004AP2899-CR
2004AP2900-CR

Cir. Ct. Nos. 2002CF878
2002CF2483
2002CF3006

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ARY L. JONES,

DEFENDANT-APPELLANT.

APPEAL from judgments and an order of the circuit court for Dane County: DAVID T. FLANAGAN III, Judge. *Affirmed*.

Before Lundsten, P.J., Deininger and Higginbotham, JJ.

¶1 LUNDSTEN, P.J. In the consolidated cases on appeal, Ary Jones argues that the circuit court erred when it denied him a hearing on his request for plea withdrawal. Jones argues that under WIS. STAT. § 971.08(1)(a) (2003-04),[1] and ***State v. Bangert***, 131 Wis. 2d 246, 389 N.W.2d 12 (1986), he made a *prima facie* showing in his motion that he was entitled to plea withdrawal because he demonstrated that, at the plea hearing, the circuit court failed to provide information that the court was required to personally convey to Jones, and he also asserted that he did not understand the omitted information. At the time this case was briefed, the legal issue Jones raises was an open question in Wisconsin. However, after briefing, this court resolved the issue in ***State v. Plank***, 2005 WI App 109, ¶¶12-17, __ Wis. 2d __, 699 N.W.2d 235, *review denied*, 2005 WI 136, __ Wis. 2d __, 703 N.W.2d 379 (No. 2004AP2280-CR). Because the issue was resolved in a manner that defeats Jones's argument here, we affirm the circuit court.

¶2 The relevant facts are these. In 2002, in three separate complaints, Jones was charged with eighteen counts of forgery, two counts of theft by fraud, six counts of misdemeanor issuing of worthless checks, and one felony count of issuing worthless checks. On two different dates in 2002 and 2003, Jones entered pleas pursuant to a plea agreement. In all, Jones pled guilty to six counts of forgery, one count of felony theft by fraud, and one count of felony issuing worthless checks. All other counts were dismissed and read in for sentencing purposes. At each plea hearing, the circuit court told Jones the maximum penalty for the charges. The court did not, however, explain that, under truth-in-

[1] All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

sentencing, Jones's terms of initial confinement could not be reduced by good time or parole. Jones filed a motion seeking plea withdrawal, alleging that the plea colloquy was defective. He argued then, as he does on appeal, that under WIS. STAT. § 971.08(1)(a), and ***Bangert***, courts taking a plea in a truth-in-sentencing case must personally inform defendants that the confinement portion of their sentence will not be reduced by good time or parole. Jones argues that this is a requirement because the absence of availability of good time and parole is a direct consequence of the plea, and courts are required to personally inform defendants of the direct consequences of their pleas.

¶3 The issue Jones raises was resolved in ***Plank***. There, we addressed whether, in a truth-in-sentencing case, a court taking a plea must personally inform the defendant that confinement time imposed will not be reduced by parole or good-time credit. ***Plank***, 2005 WI App 109, ¶12. This question required an analysis of whether such information bore on a direct consequence of the plea. ***Id.***, ¶¶12-13. We concluded that lack of parole or good-time credit was not a direct consequence, but rather a collateral consequence. ***Id.***, ¶¶14-17. Thus, a plea colloquy in which the court fails to personally provide this information to the defendant is not deficient within the meaning of WIS. STAT. § 971.08(1)(a) and ***Bangert***.

¶4 Applying ***Plank*** here, we conclude that Jones did not make a *prima facie* showing that he was entitled to plea withdrawal and, consequently, his motion was properly denied without a hearing. We affirm the circuit court.

By the Court.—Judgments and order affirmed.

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