COURT OF APPEALS
DECISION
DATED AND FILED

August 22, 2006

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 2004AP3365-CR **Cir. Ct. No. 2003CF4255**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

L.C. WHITEHEAD, JR.,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: ELSA C. LAMELAS and JOHN SIEFERT, Judges. *Affirmed.*

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

¶1 PER CURIAM. L. C. Whitehead, Jr., appeals from a judgment of conviction for delivering cocaine as a party to the crime, and from an order

summarily denying his plea withdrawal motion.[1] The issue is whether Whitehead has alleged a *prima facie* claim for plea withdrawal because the trial court failed to explain during the plea colloquy that, as a consequence of Truth-in-Sentencing (which eliminated parole and good-time credit), he would serve every day of confinement imposed. We conclude that the trial court was not obliged to inform Whitehead of the collateral consequences of his guilty plea, namely that he would serve one day in confinement for each day imposed as a consequence of Truth-in-Sentencing (as we held in ***State v. Plank***, 2005 WI App 109, ¶¶12-17, 282 Wis. 2d 522, 699 N.W.2d 235).[2] Therefore, we affirm.

¶2 Whitehead pled guilty to delivering no more than one gram of cocaine as a party to the crime, contrary to WIS. STAT. §§ 961.41(1)(cm)1g. (2003-04) and 939.05 (2003-04).[3] The trial court imposed an eighty-two-month sentence to run consecutive to any other sentence, comprised of twenty-two- and sixty-month respective periods of confinement and extended supervision. Whitehead moved for plea withdrawal, contending that the trial court's failure to inform him during the plea colloquy that his period of confinement could not be reduced by parole pursuant to Truth-in-Sentencing, rendered his guilty plea invalid because it was unknowing, involuntary and unintelligent. The trial court summarily denied the motion.

---

[1] The Honorable Elsa C. Lamelas presided over plea and sentencing proceedings. The Honorable John Siefert decided Whitehead's postconviction motion.

[2] When Whitehead litigated this issue, ***Plank*** had not yet been decided. *See* ***State v. Plank***, 2005 WI App 109, ¶¶12-17, 282 Wis. 2d 522, 699 N.W.2d 235. We decided ***Plank*** after the briefs in this appeal had been filed.

[3] All references to the Wisconsin Statutes are to the 2003-04 version.

¶3 In ***Plank***, we held that Truth-in-Sentencing's elimination of parole and good-time credit, resulting in a convicted defendant serving every day of confinement imposed, is a collateral consequence of his or her guilty plea; thus, the trial court is not obliged to explain to a defendant during the plea colloquy that he or she will serve one day in confinement for each day imposed. *See* ***Plank***, 282 Wis. 2d 522, ¶17 (citing and quoting ***Birts v. State***, 68 Wis. 2d 389, 398-99, 228 N.W. 2d 351 (1975)) (addresses why trial courts are not obliged to explain to defendants the collateral consequences of their guilty pleas). ***Plank*** controls, rejecting Whitehead's position. *See* ***Plank***, 282 Wis. 2d 522, ¶¶12-17.

By the Court.—Judgment and order affirmed.

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