

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 11, 2002

Cornelia G. Clark
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. 01-3247
STATE OF WISCONSIN**

Cir. Ct. No. 98CF000759

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

LEE R. CROUTERS,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
DANIEL L. KONKOL, Judge. *Affirmed.*

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

¶1 PER CURIAM. Lee Crouthers, pro se, appeals two trial court orders denying his motions for postconviction relief. Crouthers contends: (1) that he received ineffective assistance of trial counsel; (2) that he was denied his right of self-representation; and (3) that the trial court should have held a hearing on his postconviction motions. We reject his arguments. Accordingly, we affirm.

¶2 Crouthers was sentenced to thirty years in prison for being a party to the crime of armed robbery. Postconviction counsel moved the trial court to modify the sentence, but the trial court denied the motion. On appeal, we certified the case to the supreme court, requesting that the court clarify the standards for reviewing claims that the trial court misused its discretion in sentencing. After the supreme court declined to take the case, we affirmed. Crouthers then filed a pro se motion for postconviction relief, which the trial court denied on October 24, 2001. Crouthers filed a second motion seeking relief from the judgment based on WIS. STAT. § 806.07(1)(a) (1999-2000),¹ which the trial court also denied. He appeals both orders.

¶3 Crouthers argues that his trial counsel was ineffective for a host of reasons, including: counsel failed to investigate witnesses, counsel failed to research the case, counsel failed to adequately consult with him, and counsel failed to prepare him to testify.² We reject these arguments for the following reasons. First, Crouthers has not adequately developed them. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (we may decline to review inadequately briefed arguments). Second, Crouthers has not shown how he was prejudiced by any alleged errors on counsel's part. Crouthers pled no contest to

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

² Crouthers casts his argument in several ways. He contends that he received ineffective assistance of postconviction and appellate counsel because the issue of ineffective assistance of trial counsel was not raised during his direct appeal. He also contends that these issues were not previously raised due to a "mistake" or "excusable neglect" on his part, and he is thus entitled to relief under WIS. STAT. § 806.07(1)(a). We need not separately address Crouthers' complaints regarding postconviction and appellate counsel's failure to challenge the assistance Crouthers received from trial counsel because we conclude Crouthers' challenges to his trial counsel's performance lack merit.

the crime. Crouthers has not alleged that he would not have entered the plea, which was entered pursuant to a plea agreement that afforded him some benefit, had counsel done or not done some of the things about which Crouthers complains.

¶4 Crouthers next contends that he was improperly denied the right to self-representation. He argues that he was coerced into entering a plea because the trial court would not allow him to proceed pro se.

¶5 Again, we reject Crouthers' argument. Our review of the transcripts shows that Crouthers never asked the court to proceed pro se. At the hearing held August 7, 1998, on a motion to withdraw *brought at the behest of Crouthers' attorney*, Crouthers informed the court that he wanted another attorney, but he did not request permission to proceed pro se.³ At a status hearing on August 19, 1998, Crouthers informed the court that he wanted his attorney to continue representing him. At a motion hearing September 25, 1998, the trial court informed Crouthers that it would not accept from him pro se filings because he was represented by an attorney, but Crouthers never asked that he be permitted to proceed pro se. At a November 4, 1998, hearing, the trial court addressed a second motion to withdraw *brought by Crouthers' attorney*. Crouthers expressed dissatisfaction with his attorney, but he never requested permission to proceed pro se. Based on the transcripts, there is no factual basis for Crouthers' claim that the trial court denied his right to self-representation. The trial court could not deny a right that was never asserted.

³ Crouthers does not challenge the propriety of the trial court's decision to deny his counsel's motion to withdraw.

¶6 Finally, Crouthers argues that the trial court should have held a hearing on his motions for postconviction relief. The trial court may, in the exercise of its discretion, deny a motion for postconviction relief without a hearing where the motion fails to allege sufficient facts to raise a question of fact, where the motion presents only conclusory allegations, or where the record conclusively demonstrates that the defendant is not entitled to relief. *State v. Bentley*, 201 Wis. 2d 303, 309-10, 548 N.W.2d 50 (1996). Crouthers' motions did not warrant a hearing because the arguments he makes are too conclusory and, in the case of his claim that he was improperly denied the right to self-representation, the record conclusively demonstrates that he is not entitled to relief.

By the Court.—Orders affirmed.

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

