COURT OF APPEALS
DECISION
DATED AND FILED

August 14, 2003

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 02-2304-CR **Cir. Ct. No. 00-CF-1130**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

PETER C. RAMUTA,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Waukesha County: JAMES R. KIEFFER, Judge. *Affirmed.*

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

¶1 PER CURIAM. Peter Ramuta appeals from a judgment of conviction. The issues are whether the court erred by denying his motion to withdraw his plea, or in sentencing. We affirm.

¶2 Ramuta pled guilty to three counts of robbery by use or threat of use of a dangerous weapon. The court sentenced him to ten years confinement and five years extended supervision on each count. The sentences are consecutive to each other and to a sentence Ramuta was then serving.

¶3 Ramuta argues that the circuit court erred by denying his motion to withdraw his plea before sentencing. He argues that the court's plea colloquy was inadequate under ***State v. Bangert***, 131 Wis. 2d 246, 389 N.W.2d 12 (1986), as to his waiver of constitutional rights. Specifically, he argues that the court failed to sufficiently question him about his understanding of his constitutional rights, and failed to elicit any statement that showed he truly understood his rights. However, he does not cite any case law, other than ***Bangert***, that he believes is particularly applicable to the facts of his case. Accordingly, we apply the well-established case law that allows a court to make a sufficient record by demonstrating that the defendant has read and understood the plea questionnaire, and that the defendant understands he is waiving the rights described therein by entering the plea. *See* ***State v. Hansen***, 168 Wis. 2d 749, 755-56, 485 N.W.2d 74 (Ct. App. 1992).

¶4 In this case, the circuit court asked Ramuta if he had read and understood the plea questionnaire form, and he said he did. The court then asked: "Mr. Ramuta, do you also understand by pleading no contest to these offenses means that you give up all of your constitutional rights, which are delineated on the very first page of this Plea Questionnaire form?" Ramuta responded that he did. This is sufficient to comply with applicable case law, and therefore Ramuta's plea withdrawal motion was properly denied as to this ground.

¶5 Ramuta also argues that his motion should have been granted because his attorney at that time, who had recently replaced his previous attorney,

said he believed there was a potential defense not investigated by the prior attorney. We conclude the record is insufficient to review this issue. This ground was not stated in the original plea withdrawal motion, but was raised orally by counsel during argument on the motion. Counsel briefly identified two possible defenses, "whether these were truly armed robbery situations" and "whether or not his condition was such as to impair his ability under these circumstances to commit these crimes." Later, counsel stated that Ramuta's crimes occurred "during a period when he was very ill because of the drug addiction he was suffering from."

¶6 After further discussion, the court allowed Ramuta's attorney additional time to state in more depth what his grounds for plea withdrawal were. Counsel then submitted a brief in support of the motion. The brief discussed the ***Bangert*** issue we addressed above, but did not mention possible defenses. The court then held a further hearing, but Ramuta has apparently not arranged for the transcript of that hearing to be prepared and filed in the record. It may be that the issue of possible defenses was argued further or expressly waived at that hearing, or that the court made some ruling on the issue. However, based on the record that currently exists before us, there is no basis to conclude the court erred by denying relief on this claim.

¶7 Ramuta also argues that the court erroneously exercised its sentencing discretion. The standards for the circuit court and this court on sentencing issues are well established. *See* ***State v. Thompson***, 172 Wis. 2d 257, 263-65, 493 N.W.2d 729 (Ct. App. 1992). Ramuta argues that the court's sentence was excessive because, when combined with the Milwaukee sentences that precede them, Ramuta's total term of imprisonment will exceed a normal life expectancy. The court acknowledged that it was aware of this, and stated that it believed this was justified

based on Ramuta's separate criminal acts, prior criminal history, and the need to protect the public. This was a reasonable exercise of discretion.

¶8 Ramuta also argues that the court improperly considered the possibility that the Milwaukee convictions might be reversed. He argues that the court's comments show that it was inappropriately assuming the Milwaukee sentences would be overturned. We do not agree with that interpretation of the court's comments. The court's first comment about the possible reversal of the Milwaukee convictions was in response to a sentencing memorandum on Ramuta's behalf that recommended probation. The court said that apparently the author of that recommendation was relying on the Milwaukee convictions to keep Ramuta incarcerated for some length of time, but that the court did not know what would happen to those convictions. After announcing the sentence, the court stated its awareness that this would be essentially a life sentence, if the Milwaukee convictions were not reversed, and that this was the court's intent. We conclude there was nothing improper about this reference to the Milwaukee convictions.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (2001-02).