

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

AUGUST 1, 1995

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. 95-1337-CR-NM

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT I

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

RAYMOND SYKES, JR.,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Milwaukee County: MAXINE A. WHITE, Judge. *Affirmed.*

Before Wedemeyer, P.J., Sullivan and Fine, JJ.

PER CURIAM. Counsel for Raymond Sykes, Jr., has filed a no merit report pursuant to RULE 809.32, STATS. Sykes has filed a response to it. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal.

The State charged Sykes with three counts of armed robbery, party to the crime, and one count of possessing a firearm as a felon. In exchange for Sykes' no contest plea, the State agreed to drop one of the armed robbery counts, and to recommend no more than eleven years imprisonment on each of the remaining two. The trial court accepted the plea and sentenced Sykes to eleven-and nine-year concurrent terms on the armed robberies, and to a two-year concurrent prison term on the firearms possession charge.

Counsel's no merit report addresses whether Sykes' plea was knowing and voluntary, whether there was an adequate factual basis for it, and whether the trial court properly exercised its sentencing discretion. We concur with counsel's analysis of these issues and with his conclusion that none of these argument has merit.

In his response, Sykes asserts that trial counsel spent insufficient time meeting with him. However, Sykes does not explain, nor does the record show, how he would have benefited from additional time with counsel. The State's evidence that Sykes was a felon and that he used a handgun to commit or aid in three armed robberies was overwhelming and was not, in fact, disputed by Sykes. Counsel nevertheless obtained a plea bargain of some benefit to Sykes, which he knowingly and voluntarily accepted. Nothing indicates that counsel could have obtained a better bargain or an acquittal had he spent more time on the case.

Sykes also asserts that the district attorney and counsel misled him into believing that he would receive an eight-to-eleven-year prison sentence if he pleaded no contest. An eleven-year sentence is, in fact, what he received, along with two lesser concurrent sentences. Even if the bargain was not fully or accurately explained before the plea hearing, it was accurately stated on the record, with Sykes present and acknowledging his understanding of it. Before he pleaded, Sykes also heard the trial court's warning that he could receive twenty-year prison terms on each armed robbery count despite the prosecutor's nonbinding recommendation for lesser time.

Sykes lastly asserts that the presentence investigator lied to him about her sentencing recommendation, and did not interview his family members and character references. However, any acts or omissions by the

presentence investigator could not have prejudiced Sykes. In sentencing him, the trial court did not rely on the presentence report, instead citing Sykes' long and substantial criminal record, the failure of various terms of imprisonment and probation to modify his criminal behavior, and the facts of the crimes he committed. None of that information was disputed or subject to dispute. If Sykes had wanted the court to hear favorable information from family or friends, he could have called them as witnesses at his sentencing hearing.

Our review of the record discloses no other potential issues for appeal. Therefore, we affirm the judgment of conviction and relieve Sykes' counsel of any further representation of him in this matter.

By the Court. – Judgment affirmed.