

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

September 7, 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. 95-1765-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

HENRY L. PIERCE,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Dane County:
JACK F. AULIK, Judge. *Affirmed.*

Before Dykman, Sundby, and Vergeront, JJ.

PER CURIAM. Appellate counsel for Henry L. Pierce has filed a no merit report pursuant to RULE 809.32, STATS. Pierce did not respond to the report. Upon our independent review of the record as required 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. We therefore affirm the trial court's judgment of conviction.

The State charged Pierce with five drug-related felonies, as a repeater. Pursuant to a plea bargain, Pierce pled no contest to one count of delivering cocaine, party to the crime, as a repeater. In exchange for his plea, the State dropped the remaining four counts, and reduced the pleaded charge by dropping the allegation that the delivery occurred within 1,000 feet of a school. The parties then jointly recommended probation with one year in jail as a condition of probation. The trial court accepted that recommendation and sentenced Pierce accordingly.

Pierce cannot succeed on a motion to withdraw his plea because he knowingly and voluntarily pleaded no contest. Before accepting the plea, the trial court established that Pierce understood and waived his rights to a jury trial, confrontation and protection against self-incrimination. The court adequately informed Pierce of the elements of the crime charged and the potential punishment. The court also properly inquired as to his ability to understand the proceedings and the record independently establishes that he understood the proceedings. The State did not improperly induce Pierce to plead no contest and Pierce exercised his free will in accepting the plea bargain. Finally, the court determined that an adequate factual basis existed for the charges. The court therefore complied with the requirements set forth in *State v. Bangert*, 131 Wis.2d 246, 261-62, 389 N.W.2d 12, 21 (1986), to ensure a knowing and voluntary plea.

Appellate counsel identifies as a potential issue whether Pierce received effective assistance of trial counsel, although Pierce has not complained about the representation he received. Trial counsel successfully bargained for the dismissal of four counts against Pierce, and a reduction of the remaining count. With trial counsel's help, Pierce received probation although he faced a potential prison term of twenty years on the pleaded charge. Additionally, the record indicates that trial counsel adequately protected Pierce's rights at the preliminary hearing. Pierce has no potentially meritorious issues concerning trial counsel's performance.

Pierce has waived any challenge to his sentence because he received precisely what he asked for. Additionally, as appellate counsel notes, there are presently no new factors that would justify a reduction in that sentence.

Appellate counsel has identified no other potential meritorious issues. Upon our independent review of the record, we also conclude that there are no other potential meritorious issues and that any further proceedings would be frivolous and without arguable merit. Accordingly, we affirm the judgment of conviction and relieve Pierce's appellate counsel of any further representation of him in this appeal.

By the Court.—Judgment affirmed.