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May 19, 2020

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You are hereby notified that the Court has entered the following opinion and order:

2019AP649-CR

State of Wisconsin v. Christian M. Lovies (L.C. # 2017CF2391)

Before Brash, P.J., Dugan and Donald, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Christian M. Lovies appeals a judgment convicting him of unlawfully possessing a firearm after being adjudicated delinquent, carrying a concealed weapon, and obstructing an officer. He also appeals an order denying his postconviction motion without a hearing. Lovies argues that he

was entitled to a *Bangert*¹ hearing on his postconviction motion to withdraw his pleas. After reviewing the briefs and record at conference, we conclude that this appeal is appropriate for summary disposition. See WIS. STAT. RULE 809.21 (2017-18).² We affirm.

To pass constitutional muster, a guilty or no contest plea must be knowingly, intelligently, and voluntarily entered. See *State v. Brown*, 2006 WI 100, ¶25, 293 Wis. 2d 594, 716 N.W.2d 906; *State v. Bangert*, 131 Wis. 2d 246, 261-62, 389 N.W.2d 12 (1986). Before accepting a guilty or no contest plea, the circuit court must conduct a colloquy with a defendant that is “designed to ensure that a defendant’s plea is knowing, intelligent, and voluntary.” *Brown*, 293 Wis. 2d 594, ¶23. The issues that the circuit court must address during the colloquy with the defendant are enumerated in *Bangert* and WIS. STAT. § 971.08.

Lovies contends that his pleas were not knowingly, intelligently, and voluntarily entered because the circuit court did not adequately explain the elements of the offenses to him during the plea colloquy and he did not, in fact, understand the elements of the offenses. Assuming for the sake of argument that the circuit court did not adequately ensure during the plea colloquy that Lovies understood the elements of the crimes to which he was pleading in accord with *Bangert* and WIS. STAT. § 971.08, we conclude that Lovies was not entitled to a hearing on his postconviction motion.

For a postconviction plea withdrawal motion to warrant a *Bangert* hearing, the defendant must allege that he “did not know or understand the information that should have been provided

¹ *State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986).

² All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

at the plea colloquy.” *State v. Howell*, 2007 WI 75, ¶27, 301 Wis. 2d 350, 734 N.W.2d 48. The defendant should explain *what* he did not understand and should explain how the lack of understanding *connects* to the information that should have been provided to him during the plea colloquy. See *Brown*, 293 Wis. 2d 594, ¶67.

Here, Lovies alleged only that he “did not actually understand the legal elements underlying his convictions.” He provided no further explanation. He did not explain what elements he did not understand and to which crimes the elements pertained. He also did not explain why his lack of understanding about the particular elements of the crimes caused him to enter a plea that he otherwise would not have entered. Because Lovies made only a conclusory assertion that he did not understand the legal elements underlying his conviction, we conclude that Lovies was not entitled to a hearing on his motion to withdraw his plea.

IT IS ORDERED that the judgment and order of the circuit court are summarily affirmed.
See WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published

Sheila T. Reiff
Clerk of Court of Appeals