OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS
110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

January 20, 2021

To:

Hon. Dennis R. Cimpl
Circuit Court Judge
Safety Building, Rm. 316
821 W. State St. - Branch 19
Milwaukee, WI 53233

Hon. Michelle Ackerman Havas
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St., Rm. 504
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Christopher P. August
Assistant State Public Defender
735 N. Water Street, Ste. 912
Milwaukee, WI 53202-4116

John W. Kellis
Wisconsin Department of Justice
P.O. Box 7857
17 W. Main Street
Madison, WI 53707-7857

Karen A. Loebel
Deputy District Attorney
821 W. State St.
Milwaukee, WI 53233

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

2019AP001369-CR State of Wisconsin v. Cornelius A. Green (L.C. # 2017CF2472)

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).

Cornelius A. Green appeals a judgment convicting him of one count of burglary with a dangerous weapon, one count of injury by intoxicated use of a vehicle, and one count of hit and run, causing great bodily harm. He also appeals an order denying his postconviction motion without a hearing. Green argues that the circuit court's plea colloquy did not adequately inform

him of the nature of the hit and run charge. He also argues that he was entitled to a ***Bangert***[1] hearing on his postconviction motion to withdraw his plea. Based upon our review of the briefs and record, we conclude at conference that this case 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 (2017-18).

Green contends that his no-contest plea to the hit and run charge was not knowingly, intelligently, and voluntarily entered because the circuit court's explanation of the elements of the crime was confusing and the circuit court used an old version of the criminal jury instruction to explain the elements.

Assuming for the sake of argument that the circuit court did not adequately ensure during the plea colloquy that Green understood the elements of hit and run in accord with ***Bangert*** and WIS. STAT. § 971.08, we conclude that Green was not entitled to a hearing on his postconviction motion.

[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.

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 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.

Green alleged only that "he did not actually understand the[] elements of hit and run." He provided no further explanation. He did not explain what elements he did not understand and he did not explain how his lack of understanding about the particular element or elements of the crime relates to the information he should have provided during the plea. Because Green made only a conclusory assertion that he did not understand the legal elements underlying the charge, we conclude that Green was not entitled to a hearing on his motion to withdraw his plea. The circuit court properly denied the motion without a hearing.[3]

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

[3] On January 7, 2021, appointed appellate counsel moved to withdraw. Because this opinion is ready for release, the motion is moot. Therefore, we deny the motion.