

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 14, 2007

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2006AP70-CR

Cir. Ct. No. 2004CF557

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

LARRY DANIELLE PETERSON,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: MARY M. KUHNMUENCH, Judge. *Affirmed.*

Before Curley, P.J., Wedemeyer and Kessler, JJ.

¶1 PER CURIAM. Larry Danielle Peterson appeals from a judgment of conviction for robbery and first-degree recklessly endangering safety. The issues are whether his right to a speedy trial was violated, whether the State violated the Interstate Agreement on Detainers, and whether he received the

ineffective assistance of trial counsel. We conclude that Peterson waived the first two claims when he entered an *Alford* plea to the charges, and the latter claim when he failed to initially raise it in the trial court. Therefore, we affirm.

¶2 Peterson was originally charged with armed robbery with the use of force, and first-degree recklessly endangering safety, from a 1999 incident. In 2004, Peterson moved to dismiss predicated on the State's failure to timely prosecute the charges against him. The trial court granted Peterson's motion, and dismissed the action without prejudice.

¶3 That same day, the State re-filed the charges. Peterson demanded a speedy trial. Approximately one year later, Peterson moved to dismiss for the State's failure to timely prosecute. The trial court denied the motion, explaining that Peterson consented to or acquiesced in most of the delays. The next day, during the jury trial, Peterson decided to enter an *Alford* plea to robbery with the use of force, in violation of WIS. STAT. § 943.32(1)(a) (1999-2000), and first-degree recklessly endangering safety, in violation of WIS. STAT. § 941.30(1) (1999-2000).¹ The trial court imposed two three-year concurrent sentences, both to run consecutive to a lengthy federal sentence Peterson was already serving.

¶4 On appeal, Peterson claims that he was denied his right to a speedy trial, the State violated the Interstate Agreement on Detainers (codified as WIS. STAT. § 976.05 (2003-04)), and his trial counsel was ineffective. His ineffective

¹ An *Alford* plea waives a trial and constitutes consent to the imposition of sentence, despite the defendant's claim of innocence. See *North Carolina v. Alford*, 400 U.S. 25, 37-38 (1970); accord *State v. Garcia*, 192 Wis. 2d 845, 856, 532 N.W.2d 111 (1995) (acceptance of an *Alford* plea is discretionary in Wisconsin).

assistance claims were for failing to seek interlocutory review, for failing to pursue the alleged § 976.05 violation, and for “coercing” him to plead guilty to the charges to avoid being found guilty by a jury.

¶5 By entering an *Alford* plea to the charges, Peterson waived the right to review his claims to the alleged violations of his right to a speedy trial and to WIS. STAT. § 976.05 (2003-04). See *State v. Riekkoff*, 112 Wis. 2d 119, 122-23, 332 N.W.2d 744 (1983) (by entering a guilty plea to the charge, defendant waives the right to challenge nonjurisdictional defects and defenses). Both of these challenges are nonjurisdictional and thus, are waived. See *Foster v. State*, 70 Wis. 2d 12, 19-20, 233 N.W.2d 411 (1975) (alleged violation of a speedy trial demand is waived by a guilty plea); *Kowalak v. United States*, 645 F. 2d 534, 537 (6th Cir. 1981) (alleged violation of the Interstate Agreement on Detainers is waived by a guilty plea). Moreover, Peterson never raised a violation of § 976.05 in the trial court. That failure also waived any right to raise that issue on appeal. See *Wirth v. Ehly*, 93 Wis. 2d 433, 443-44, 287 N.W.2d 140 (1980), *superseded on other grounds by* WIS. STAT. § 895.52 (generally, an appellate court will not review an issue raised for the first time on appeal).

¶6 Peterson has not moved the trial court to withdraw his *Alford* plea, or to challenge the effective assistance of trial counsel. Consequently, we will not review those issues initially on appeal. See *id.*; *State ex rel. Rothering v. McCaughtry*, 205 Wis. 2d 675, 677-78, 556 N.W.2d 136 (Ct. App. 1996) (“Claims of ineffective trial counsel or whether grounds exist to withdraw a guilty plea cannot be reviewed on appeal absent a postconviction motion in the trial court.”).

¶7 Peterson has raised three challenges. He has waived all of them, either by entering an *Alford* plea to the charges, or by failing to initially raise them in the trial court.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2005-06).

