

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

March 7, 1996

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. 95-0062-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

NATHAN GILLIS,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Dane County:
P. CHARLES JONES, Judge. *Affirmed.*

Before Eich, C.J., Dykman and Sundby, JJ.

PER CURIAM. Nathan Gillis appeals from a judgment of conviction resulting from an *Alford* plea. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970). Counsel has filed a no merit report. We affirm.

As a result of his plea, Gillis was convicted of kidnapping, contrary to § 940.31(1)(b), STATS.; false imprisonment, contrary to § 940.30, STATS.; two counts of second-degree sexual assault, contrary to § 940.225(2)(a), STATS.; and first-degree recklessly endangering safety, contrary to § 941.30(1), STATS. The state public defender's office appointed Robert T. Ruth to represent Gillis on appeal. Ruth has filed a no merit report with this court, pursuant to *Anders v. California*, 386 U.S. 738 (1967), and RULE 809.32, STATS., and reports that a copy has been sent to Gillis. In compliance with *Anders*, both Ruth and this court informed Gillis that he could respond to the report, but he has not done so, although he filed various motions before the report was filed. After an independent review of the record as mandated by *Anders*, we conclude that any further proceedings in this matter would be wholly frivolous and without arguable merit.

All the charges against Gillis arise from an incident in which he was accused of dragging a female passerby into his apartment and twice forcibly sexually assaulting her while choking and blindfolding her. Gillis was convicted after a plea colloquy in which the circuit court determined that the evidence against him was strong enough to provide a sufficient basis for the plea, that the plea was knowing, intelligent and voluntary, that Gillis understood the rights he was giving up, and that Gillis understood the elements of the charges that the State would have to prove to obtain a conviction. Indeed, the plea came after several days of trial, and after the complaining witness had been subjected to a complete cross-examination taking most of a day. Police witnesses and others also testified before Gillis entered his plea, which stopped the trial.

The circuit court sentenced Gillis to twelve years in the Wisconsin state prison system on the two counts of sexual assault and the charge of recklessly endangering safety. The circuit court imposed 26 years' probation on the kidnapping and false imprisonment charges, concurrent with the prison sentences. The sentencing was in accord with Gillis's plea agreement with the State. Among factors considered by the court in determining the sentencing period was the impact on the victim, as well as Gillis's demeanor.

The no merit report addresses the question of whether the evidence was sufficient to support the conviction, whether the plea was proper, and whether the circuit court abused its discretion in sentencing Gillis to prison

for twelve years. We agree with counsel that there is no merit to any argument based on these issues. Our independent review of the record reveals no other potential issues for appeal. Therefore, we conclude that any further appellate proceedings would be without arguable merit and would be wholly frivolous, within the meaning of *Anders*, as well as RULE 809.32, STATS. Accordingly, Gillis's conviction is affirmed, and we grant his counsel's motion to withdraw from further representation before this court.

By the Court.—Judgment affirmed.