**COURT OF APPEALS**
**DECISION**
**DATED AND RELEASED**

December 7, 1995

**NOTICE**

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(1), STATS.

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

**No. 95-2396-CR-NM**

**STATE OF WISCONSIN** **IN COURT OF APPEALS**
**DISTRICT IV**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**ROY E. RIDENER,**

**Defendant-Appellant.**

APPEAL from a judgment and an order of the circuit court for La Crosse County: PETER G. PAPPAS, Judge. *Affirmed*.

Before Eich, C.J., Gartzke, P.J., and Sundby, J.

PER CURIAM. Roy Ridener appeals from a judgment convicting him of two counts of burglary, one as a repeater, and from an order denying his motion for postconviction relief. Ridener's appellate counsel filed a no merit report pursuant to RULE 809.32, STATS., and ***Anders v. California***, 386 U.S. 738 (1967). Ridener received the report and was informed of his right to file a response. Ridener has not responded although the court extended the deadline

for responding by more than thirty days at Ridener's request. After considering the report and after conducting an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal. Accordingly, we affirm.

The no merit report addresses: (1) whether Ridener made an unequivocal request for counsel; (2) if so, whether the request for counsel was subsequently withdrawn or waived; and (3) whether Ridener's trial counsel should have filed a motion to suppress Ridener's statement to the police.

The no merit report correctly notes that, regardless of whether Ridener's request was equivocal or not, the police treated the request as unequivocal and ceased questioning. They did not resume questioning until Ridener repeatedly requested that they do so because he had changed his mind. Although once a request for counsel is made, interrogation must cease, ***Edwards v. Arizona***, 451 U.S. 477 (1991), a suspect may subsequently reassess his or her interest and decide to speak with the police. ***Wentela v. State***, 95 Wis.2d 283, 290 N.W.2d 312 (1980).

Ridener contends that he was coerced into changing his mind about speaking with the police when one of the police officers suggested that they would be "piping sunshine" to Ridener given the length of time he was likely to spend in jail.

Although the officer's statement was perhaps imprudent, we agree with the trial court's conclusion that the statement was not made for the purpose of getting Ridener to change his mind about cooperating with the police. After the officer made the comment, he refused to allow Ridener to continue the interview, informing Ridener that the interrogation had terminated because Ridener had requested counsel. The police did not resume questioning Ridener until he repeatedly insisted that he be given the opportunity to cooperate with the police. As Ridener explained during the questioning, he decided to cooperate with the police in part so that his girlfriend would not be wrongly implicated. Under these circumstances, there is no arguable merit to a claim that Ridener had not withdrawn his request for counsel. Because there is no arguable merit to a claim that Ridener did not withdraw his request for

counsel, Ridener's attorney's decision not to file a motion to suppress did not constitute ineffective assistance of counsel.

Our independent review of the record reveals no other potential issues. Accordingly, we affirm the judgment of conviction and the order denying postconviction relief and relieve Attorney Thomas Olson of further representing Ridener in this matter.

*By the Court.*—Judgment and order affirmed.