COURT OF APPEALS
DECISION
DATED AND RELEASED

October 24, 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. 96-1460-CR-NM

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

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

WEST M. JONES,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Dane County: MICHAEL N. NOWAKOWSKI, Judge. *Affirmed*.

Before Dykman, P.J., Vergeront and Deininger, JJ.

PER CURIAM. After pleading no contest, West M. Jones was convicted of fleeing an officer and operating a motor vehicle while intoxicated. Jones's counsel filed a no merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and RULE 809.32, STATS. Jones was advised of his right to file a response, but he has not done so. After considering the report and conducting

an independent review of the record, we conclude that there is no arguable merit to any issue that could be raised on appeal.

The no merit report addresses whether Jones's no contest plea was knowingly and voluntarily made. Before the trial court may accept a plea of no contest, it is required to determine that the defendant understands the charge and its consequences and that the defendant is knowingly waiving his constitutional rights. ***State v. Bangert***, 131 Wis.2d 246, 267, 270, 389 N.W.2d 12, 23, 24 (1986). The trial court questioned Jones at length, ascertaining that he understood the charges and consequences, that he knew what the State would have to prove to convict him, and that he was aware of his constitutional rights and wanted to waive them. There would be no arguable merit to challenging the voluntariness of the plea on appeal.

The no merit report also addresses whether the trial court properly exercised its discretion in withholding Jones's sentence and placing him on probation for two years on the charge of fleeing an officer and imposing a $150 fine with a six-month suspension of driving privileges on the operating a motor vehicle while intoxicated charge. The trial court sentenced Jones upon joint recommendation of Jones and the State. A defendant may not challenge a sentence that he has affirmatively approved. ***State v. Scherreiks***, 153 Wis.2d 510, 518, 451 N.W.2d 759, 762 (Ct. App. 1989). There would be no arguable merit to raising this issue on appeal.

Our independent review of the record reveals no other potential issues. Therefore, we affirm the judgment of conviction and relieve Attorney Martha Askins of further representing Jones in this matter.

By the Court.—Judgment affirmed.