COURT OF APPEALS
DECISION
DATED AND FILED

November 21, 2007

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2006AP2560-CR

Cir. Ct. Nos. 2003CF7176
2004CF1394
2004CF7458

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT I

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ANDRE E. COOK,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: JOHN A. FRANKE and DENNIS P. MORONEY, Judges. *Affirmed.*

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

¶1 PER CURIAM. Andre Cook appeals from a judgment of conviction and from an order denying his postconviction motion. The dispositive

issue is whether his motion to withdraw his pleas sufficiently alleged that he did not know certain information that should have been provided during the plea colloquy. We conclude it did not, and therefore we affirm.

¶2 Cook's motion sought to withdraw his pleas on the ground that they were not entered knowingly, voluntarily, and intelligently. He asserted that he was entitled to an evidentiary hearing because the circuit court did not comply with certain duties during the plea colloquy relating to the nature of the charge and the rights Cook was waiving, as required by ***State v. Bangert***, 131 Wis. 2d 246, 389 N.W.2d 12 (1986) and WIS. STAT. § 971.08 (2005-06).[1] However, such a motion must also meet a second requirement, which is that the defendant allege that he did not understand information that should have been provided during the colloquy. ***State v. Brown***, 2006 WI 100, ¶¶60-67, 293 Wis. 2d 594, 716 N.W.2d 906. Whether Cook has sufficiently alleged that he did not know or understand information that should have been provided at the plea hearing is a question of law that we review de novo. ***Id.***, ¶21.

¶3 A defendant "is required to plead in his motion that he did not know or understand some aspect of his plea that is related to a deficiency in the plea colloquy." ***Id.***, ¶62. This requirement exists to ascertain that there is a reason for an evidentiary hearing and to give notice to the State about what it must be prepared to prove. ***Id.***, ¶¶63-65. "A defendant must identify deficiencies in the plea colloquy, state what he did not understand, and connect his lack of understanding to the deficiencies." ***Id.***, ¶67.

[1] All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

¶4 Cook's postconviction motion fails to meet this requirement. On appeal, he argues that the colloquy was deficient as to one or more constitutional rights he was waiving. The postconviction motion did not raise this issue at all. It did not assert any deficiencies in the plea colloquy as to rights, and there is no allegation that he did not understand he had those rights, or that he was waiving them by pleading. Therefore, the motion was properly denied as to constitutional rights.

¶5 Cook also argues that the colloquy was deficient as to the elements of the charges, including the fact that in two of the counts he was charged as an aider and abettor under the "parties to a crime" statute, WIS. STAT. § 939.05(2)(b). In an introductory paragraph, his postconviction motion states:

> The pleas were involuntary because the elements of the offenses were not fully and completely explained at the plea hearing, the plea questionnaires do not contain a complete recitation of the elements, no jury instructions were attached to the questionnaire, nor shown to Mr. Cook, nor did he understand the elements, and because the record demonstrates other instances of noncompliance with the requirements of § 971.08 Wis. Stats. and ***State v. Bangert***, 131 Wis. 2d 260, 262 389 N.W.2d 12 (1986).

The remainder of the motion goes on to describe the alleged deficiencies in the plea colloquy, and certain other testimony Cook would offer, but it contains no further discussion about Cook's lack of understanding of "the elements."

¶6 We conclude that this allegation fails to satisfy the requirements of ***Brown*** we described above. First, we note that this was a multi-count case involving several different offenses. There is no specificity in the motion as to Cook's understanding about any particular charge. Furthermore, there is no specificity as to any particular element of a charge, or as to whether the alleged problem was a failure to understand the general concept of "elements." As to the

aider and abetter component, there is no allegation of lack of understanding that is specific to that component.

¶7 In summary, we conclude that a bare assertion that "nor did [the defendant] understand the elements" is not sufficient. The postconviction motion was properly denied without a hearing.

By the Court.—Judgment and order affirmed.

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