

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 28, 2011

A. John Voelker
Acting 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. 2010AP2983-CR

Cir. Ct. No. 2008CF3477

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

PAUL M. HALL,

DEFENDANT-APPELLANT.

APPEAL from a judgment and an order of the circuit court for Milwaukee County: REBECCA F. DALLET, Judge. *Affirmed.*

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

¶1 PER CURIAM. Paul M. Hall, *pro se*, appeals a judgment convicting him of conspiracy to commit armed robbery and possession of a firearm by a felon. He also appeals an order denying his postconviction motion.

He argues that he should be allowed to withdraw his guilty plea and that he received ineffective assistance of counsel. We affirm.

¶2 Hall first argues that he should be allowed to withdraw his guilty plea because the circuit court did not establish that there was a sufficient factual basis for the plea to the charge of conspiracy to commit armed robbery. A circuit court must “[m]ake such inquiry as satisfies it that the defendant in fact committed the crime charged.” WIS. STAT. § 971.08(1)(b) (2009-10);¹ *see also State v. Lackershire*, 2007 WI 74, ¶26, 301 Wis. 2d 418, 734 N.W.2d 23. Usually, a factual basis for a guilty plea is established by reference to the allegations set forth in the criminal complaint. *State v. Sutton*, 2006 WI App 118, ¶17, 294 Wis. 2d 330, 718 N.W.2d 146. In addition, “a court may look at the totality of the circumstances when reviewing a defendant’s motion to withdraw a guilty plea to determine whether a defendant has agreed to the factual basis underlying the guilty plea.” *State v. Thomas*, 2000 WI 13, ¶18, 232 Wis. 2d 714, 605 N.W.2d 836. “The totality of the circumstances includes the plea hearing record, the sentencing hearing record, as well as the defense counsel’s statement concerning the factual basis presented by the state, among other portions of the record.” *Id.*

¶3 The record establishes a factual basis for the charge of conspiracy to commit armed robbery. “A conspiracy is a mutual understanding to accomplish some common criminal objective or to work together for a common criminal purpose.” WIS JI—CRIMINAL 570 (2008). “It is not necessary that the

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

conspirators had any express or formal agreement, or that they had a meeting, or even that they all knew each other.” *Id.*

¶4 According to the complaint, Hall participated in a drug sale to a person who, unbeknownst to him, was a confidential informant. After Hall got into the vehicle with the confidential information to make the sale, he pulled out a gun, placed it in his lap with the muzzle facing the confidential informant, and told him to empty his pockets. At about the same time, Clyde Hall, Hall’s cousin, got into the rear passenger side of the vehicle, pulled out a gun, and held it to the head of the confidential informant. When police arrived on the scene, they both ran away.

¶5 The complaint also alleged that Nicole Hall, Hall’s wife, told the police she was at a grocery store with her husband before the robbery. He received several phone calls and she overheard a conversation between him and another person in which they were discussing taking money from someone. Later, she drove her husband and two cousins, Clyde and Renado Hall, to the building where the robbery occurred. Her husband and Clyde got out of the car, while Renado stayed in the car with her. She drove around to the other side of the building. A short time later, her husband and Clyde ran to her car, being chased by police.

¶6 According to the complaint, Clyde told the police he met Hall and Renado at an apartment building on the day of the robbery. Renado told him that Hall was meeting some guy “to collect some money.” Renado gave him a gun and told him to use it to scare the guy while Hall got money from the guy. Renado also directed him to get in the back seat of the car while Hall got the money. At the plea hearing, Hall stipulated to the facts in the complaint. At sentencing,

Hall's attorney stated that Hall took full responsibility for committing the crimes, which included conspiracy to commit armed robbery. Based on the facts alleged in the complaint and Hall's acknowledgments during the plea and sentencing hearings, we conclude that there was a sufficient factual basis in the record to support the conviction.

¶7 Hall next argues that he received ineffective assistance of trial counsel. To prove a claim of ineffective assistance of counsel, a defendant must show that his lawyer's performance was deficient and that he suffered prejudice as a result of the deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). In his postconviction motion, Hall contended his attorney failed to adequately research and apply the law during the plea process, and that he coerced him into entering the plea.

¶8 A circuit court is not required to hold a hearing on a postconviction motion alleging ineffective assistance of counsel where, as here, the postconviction motion makes only conclusory allegations. *See State v. Allen*, 2004 WI 106, ¶9, 274 Wis. 2d 568, 682 N.W.2d 433. Hall's assertion that his counsel did not adequately research the case was insufficient to warrant a hearing because Hall did not explain what additional research he believes his attorney should have done and how it would have affected his decision to plead guilty. Hall does not provide any detail to support his claim that he was coerced by his attorney to plead guilty and the plea hearing transcript directly undermines his claim. He told the court during the plea colloquy that he had not been threatened or pressured to enter the plea, he was satisfied with his lawyer and was entering the plea because he wanted to take responsibility for his actions. Therefore, we conclude that the circuit court properly exercised its discretion in rejecting Hall's argument that he received ineffective assistance of counsel 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.

