

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 25, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

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 § 808.10 and RULE 809.62, STATS.

No. 98-3071-CR-NM

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

GEORGE WILLIAMS,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dane County:
STEVEN D. EBERT, Judge. *Affirmed.*

Before Vergeront, Roggensack and Deininger, JJ.

PER CURIAM. Counsel for George E. Williams has filed a no merit report pursuant to RULE 809.32, STATS. Williams has not responded to the report. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to

any issue that could be raised on appeal. We therefore affirm the trial court's judgment.

The State charged Williams with two counts of armed robbery as a party to the crime, and one count of armed robbery as a party to the crime while masked. Pursuant to a plea agreement, Williams entered a guilty plea to one of the armed robbery counts and to the armed robbery while masked, and the State dismissed the remaining count. The trial court accepted Williams' plea and sentenced him to a twenty-year prison term on one count, and withheld sentence on the other and gave Williams a thirty-year term of probation to run concurrent with his prison sentence.

Williams cannot succeed on a motion to withdraw his guilty plea because he knowingly and voluntarily entered it. Before accepting the plea, the court established that Williams understood and waived his rights to a jury trial, confrontation and protection against self-incrimination. The court adequately informed Williams of the elements of the charges and the potential punishment. The court also properly inquired as to Williams' ability to understand the proceedings and the record independently establishes that he understood. The State did not improperly induce Williams to plead guilty and Williams exercised his free will in accepting the plea agreement. Finally, the court determined that an adequate factual basis existed for the charges. The court therefore complied with the requirements set forth in *State v. Bangert*, 131 Wis.2d 246, 261-62, 389 N.W.2d 12, 21 (1986), to insure a knowing and voluntary plea.

The trial court properly exercised its sentencing discretion. Sentencing lies within the trial court's discretion and a strong public policy exists against appellate interference with that discretion. See *State v. Haskins*, 139

Wis.2d 257, 268, 407 N.W.2d 309, 314 (Ct. App. 1987). The trial court is presumed to have acted reasonably and the defendant has the burden to show unreasonableness from the record. *Id.* Here the trial court considered the seriousness of the crimes, their damaging effect on the victims, and the need to protect the public from further violent crimes committed by Williams. The maximum prison time Williams faced was eighty-five years. Given the factors relied upon by the trial court, he cannot reasonably contend that the trial court imposed an excessive sentence. Additionally, not only did the trial court consider the proper factors, but it fully explained its reliance on them at the sentencing hearing.

Appellate counsel identifies as a potential issue whether the trial court's reference to Williams' potential parole eligibility constituted an erroneous exercise of the trial court's sentencing discretion. As counsel notes, this court has recognized that trial courts may consider parole eligibility when imposing sentence. *State v. Stuhr*, 92 Wis.2d 46, 51, 284 N.W.2d 459, 462 (Ct. App. 1979).

Counsel also discusses whether Williams can meritoriously argue ineffective assistance of counsel and whether he has any grounds to seek a modified sentence. We agree with counsel's analysis of these issues and also agree that nothing in the record or in counsel's knowledge of the case would support raising either one.

Our independent review of the record discloses no other potential issues for appeal. We therefore affirm the judgment of conviction and relieve Williams' counsel of any further representation of him in this matter.

By the Court.—Judgment affirmed.

