

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

April 25, 2000

Cornelia G. Clark  
Clerk of 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 WIS. STAT. § 808.10 and RULE 809.62.

**No. 99-1958**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**RONALD G. NADOLSKI,**

**DEFENDANT-APPELLANT.**

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APPEAL from an order of the circuit court for Outagamie County:  
MICHAEL W. GAGE, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Ronald Nadolski appeals a trial court order that denied his postconviction motion under WIS. STAT. § 974.06.<sup>1</sup> After the Wisconsin Department of Corrections revoked probation on his felony conviction

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<sup>1</sup> All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

for failing to return rental property, Nadolski sought to withdraw his no contest plea. On appeal, Nadolski makes four basic arguments: (1) he did not understand the rights he was waiving by pleading no contest; (2) his trial counsel was ineffective in giving Nadolski defective plea advice and by failing to inform the trial court at the plea hearing of the advice she had given Nadolski; (3) his conviction violated the double jeopardy clause; and (4) he deserves sentence credit for time already served in the event he is permitted to withdraw his plea and is reconvicted. We reject these arguments and affirm the trial court order.

¶2 The trial court had sufficient grounds to reject Nadolski's motion to withdraw the plea. At the postconviction stage, Nadolski needed to show that his plea was not knowing, intelligent, and voluntary. *See State v. Bangert*, 131 Wis. 2d 246, 257, 389 N.W.2d 12 (1986). He also needed to demonstrate a manifest injustice. *See State v. Rock*, 92 Wis. 2d 554, 558-59, 285 N.W.2d 739 (1979). Nadolski made neither showing. Rather, Nadolski's conviction claims merely contradicted his statements at the time of the plea. For example, Nadolski indicated several times on the plea questionnaire that he understood the rights he was waiving and the effect of his no contest plea. Nadolski also assured the trial court at the plea hearing that he understood the effect of his plea. Under the circumstances, the trial court could reject Nadolski's contrary claims made to support his motion to withdraw his plea after his probation was revoked. The trial court was the judge of Nadolski's credibility at the plea hearing, *see State v. Poellinger*, 153 Wis. 2d 493, 504, 451 N.W.2d 752 (1990), and could continue to rely on the assurances Nadolski gave the court at that time.

¶3 Nadolski's ineffective assistance claims also do not invalidate the plea. Nadolski needed to show both deficient performance by trial counsel and prejudice from the performance. *See Strickland v. Washington*, 466 U.S. 668,

687 (1984). Nadolski's ineffective assistance claim is vague and conclusory. It also contradicts his representations on the plea questionnaire and at the plea hearing. He also cites no authority for his premise that his plea hearing counsel needed to describe counsel's plea advice at the plea hearing. Further, Nadolski has not identified what rights his counsel failed to explain or how they would have materially changed his decision to plead no contest. Moreover, Nadolski needed to make a showing that there was a reasonable probability that but for counsel's errors, he would not have pled no contest, but would have gone to trial. *See Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Nadolski has made no such showing. He has simply claimed that his trial counsel failed to adequately advise him.

¶4 We briefly address Nadolski's remaining two arguments. First, we will not review the merits of his double jeopardy argument. He did not raise them in his § 974.06 postconviction motion and has thereby waived them. *See Wirth v. Ehly*, 93 Wis. 2d 433, 443-44, 287 N.W.2d 140 (1980). Moreover, we disposed of them in a prior appeal. *See State v. Nadolski*, No. 95-2599-CR, slip op. (Wis. Ct. App. Jan. 17, 1996). The prior decision is law of the case. *See Univest Corp. v. General Split Corp.*, 148 Wis. 2d 29, 38, 435 N.W.2d 234 (1989). Second, we will not rule on Nadolski's request for sentence credit. This issue would not be ripe unless Nadolski were permitted to withdraw his no contest plea and he was convicted a second time. Neither has transpired. Appellate courts will not consider issues that are not ripe for decision. *See Estate of Schultz*, 194 Wis. 2d 799, 810, 535 N.W.2d 116 (Ct. App. 1995).

*By the Court.*—Order affirmed.

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

