

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

July 6, 1995

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.

Nos. 94-0347-CR
94-0348-CR

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

PRIEST WILLIAMS,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Rock County:
PATRICK J. RUDE, Judge. *Affirmed.*

Before Eich, C.J., Dykman and Vergeront, JJ.

PER CURIAM. Priest Williams appeals from a judgment of conviction on two felony counts and one misdemeanor count as a habitual offender. Williams pled no contest to the charges. In exchange, the State dropped nine other charges, and agreed to recommend probation. Two months later, but before sentencing, Williams moved to withdraw his plea on the two

felony counts. The issue is whether the trial court erroneously exercised its discretion by denying that motion. We conclude that the trial court properly denied the motion, and therefore affirm.

The trial court should grant a presentence motion to withdraw a plea when the defendant has shown a fair and just reason. *State v. Shanks*, 152 Wis.2d 284, 288-89, 448 N.W.2d 264, 266 (Ct. App. 1989). Here, Williams alleged in his motion that he did not receive sufficient information from counsel to knowingly make his plea, and that he had meritorious defenses to the felonies. However, Williams failed to present any evidence to support his allegations at the hearing on the motion to withdraw his plea. Trial counsel testified that he provided Williams with sufficient information to enter a knowing plea. Williams did not testify. The reasons given for withdrawing the plea must be supported by the evidence of record. *Id.* at 290, 448 N.W.2d at 267. Williams' failure to present that evidence allowed the trial court to properly conclude that the motion lacked a factual basis.

By the Court.—Judgment affirmed.

This opinion will not be published.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