

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 31, 2001

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

No. 00-3292-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

SISAKHONE S. DOUANGMALA,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Brown County:
DONALD R. ZUIDMULDER, Judge. *Affirmed.*

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

¶1 PER CURIAM. Sisakhone Douangmala appeals an order denying his motion to withdraw his no contest pleas on the ground that he did not understand the risk of deportation that arose from his pleas. In an earlier appeal, this court remanded the matter to the circuit court for a hearing and findings on

Douangmala's understanding of the possibility of deportation at the time he entered pleas to burglary, robbery and false imprisonment charges. The circuit court found that Douangmala's trial counsel read him the entire plea questionnaire form including the part relating to deportation and was satisfied that he understood the risk of deportation. The trial court denied the motion to withdraw the no contest pleas and Douangmala appeals that decision.

¶2 Whether a plea was knowingly, voluntarily and intelligently made is a question of constitutional fact that we review without deference to the trial court. *See State v. Issa*, 186 Wis. 2d 199, 211, 519 N.W.2d 741 (Ct. App. 1994). However, the trial court's findings of historical fact will be sustained unless they are clearly erroneous. *See WIS. STAT. § 805.17(2)* (1999-2000). The trial court is the arbiter of the witnesses' credibility. *See Leciejewski v. Sedlak*, 116 Wis. 2d 629, 637, 342 N.W.2d 734 (1984).

¶3 The State presented sufficient evidence to support the trial court's finding that Douangmala had actual knowledge of the risk of deportation at the time he entered his pleas. His trial counsel testified that she was aware of his limited understanding of English and that, although she had no specific recollection of reviewing the deportation possibility with Douangmala, her normal practice would have been to read the entire plea questionnaire form and explain its contents to her client. By signing her name at the end of the form, she acknowledged that she had discussed and explained its contents to Douangmala. Because of his language difficulties, counsel stated that she would "always try to break down concepts and legal terminology into what [she] felt would be appropriate means to communicate with him." Because he understood "street language," she tried to present complex legal matters in a manner that Douangmala would understand. As the arbiter of the witnesses' credibility, the

trial court reasonably rejected Douangmala's self-serving assertion that he did not recall counsel discussing deportation with him.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (1999-2000).

