COURT OF APPEALS
DECISION
DATED AND FILED

April 11, 2006

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 2005AP1078 **Cir. Ct. No. 1994CF942067**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

MARTWON BROWN,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County: KAREN E. CHRISTENSON, Judge. *Affirmed.*

Before Wedemeyer, P.J., Fine and Curley, JJ.

¶1 FINE, J. Martwon Brown appeals, *pro se*, from an order denying his WIS. STAT. § 974.06 motion for postconviction relief. Brown claims that the trial court erred when it denied his request to enlarge the time to file a direct

appeal. He also claims that: (1) the trial court did not have personal jurisdiction, and (2) his trial lawyer was ineffective. We affirm.[1]

I.

¶2 In 1994, Brown, who was then seventeen years old, pled guilty to first-degree intentional homicide, while armed with a dangerous weapon, as a party to a crime, for shooting and killing Ray Kelly. *See* WIS. STAT. §§ 940.01(1), 939.63, 939.05 (1993–94). The trial court sentenced Brown to prison for "life," with parole eligibility to be determined by the parole board. Brown did not seek postconviction relief or file an appeal.

¶3 In February of 2005, Brown filed a *pro se* WIS. STAT. § 974.06 motion seeking, among other things, reinstatement of his direct-appeal rights. He also claimed, as material, that: (1) the trial court did not have personal jurisdiction back in 1994 because his arrest was allegedly illegal, and (2) his trial lawyer was ineffective because the lawyer did not challenge the sufficiency of the evidence. We address each claim in turn.

II.

¶4 Brown argues that the trial court erred when it denied his motion to enlarge the time to file a notice of intent to appeal the 1994 conviction. The trial court denied Brown's motion to reinstate his direct-appeal rights because it

[1] Brown has sprinkled his WIS. STAT. § 974.06 motion and brief on appeal with tangential assertions that are not developed and does not discuss in his appellate brief several things mentioned in his § 974.06 motion. We do not address these matters. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633, 642 (Ct. App. 1992) (appellate court may "decline to review issues inadequately briefed"); ***Reiman Assocs., Inc. v. R/A Adver., Inc.***, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292, 294 n.1 (Ct. App. 1981) (contentions not briefed are waived).

correctly recognized that it could not grant that request. A motion for an extension of time to file a notice of intent to appeal must be brought in this court. *See* WIS. STAT. RULE 809.82(2); ***State v. Quackenbush***, 2005 WI App 2, ¶¶3, 10, 278 Wis. 2d 611, 617–618, 620–621, 692 N.W.2d 340, 342–343, 344. In January of 2005, Brown did that, seeking reinstatement of his right to a direct appeal. We denied that motion, pointing out that Brown had not "provided this court with good cause to extend the twenty-day deadline for filing a notice of intent to pursue postconviction relief by over ten years." *See* RULE 809.82(2) (time limits for filing a notice of appeal may be extended upon a showing of good cause). Brown has still not shown good cause for an extension of time. Accordingly, there is no reason to overturn our prior order.[2]

¶5 Brown also argues that the trial court erred when it denied his request for transcripts. The trial court denied Brown's request because Brown did not "set forth an arguably meritorious claim of any kind." *See* ***State ex rel. Girouard v. Circuit Court for Jackson County***, 155 Wis. 2d 148, 159, 454 N.W.2d 792, 797 (1990) (indigent appellant entitled to transcript without payment if he or she "has an arguably meritorious claim"). We agree. As noted below, Brown's claims are either conclusory and undeveloped, or lack arguable merit.

¶6 As noted, Brown contends that his allegedly unlawful arrest deprived the trial court of personal jurisdiction. He claims that the trial court was "prevented from adjudicating [his] case as [his] unlawful detention and coerced

[2] Brown also appears to request that we appoint appellate counsel for him. In light of our denial to enlarge the time for filing a notice of appeal, we do not address Brown's request for appellate counsel. *See* ***Gross v. Hoffman***, 227 Wis. 296, 300, 277 N.W. 663, 665 (1938) (only dispositive issue need be addressed). Brown sought but was denied counsel appointed by the State Public Defender. *See* WIS. STAT. ch. 977.

confession … deni[ed him] the safeguards necessary to assure that admissions or confessions are reasonably trustworthy." We disagree.

¶7 This claim is conclusory and undeveloped. Brown does not allege how or why his confession was allegedly coerced and, aside from a passing reference to the "juvenile justice code," does not allege how or why his arrest was illegal. *See* ***Barakat v. Department of Health & Soc. Servs.***, 191 Wis. 2d 769, 786, 530 N.W.2d 392, 398 (Ct. App. 1995) (we will not review arguments that are "amorphous and insufficiently developed"). Moreover, under ***State v. Smith***, 131 Wis. 2d 220, 240, 388 N.W.2d 601, 610 (1986), an illegal arrest does not deprive the court of personal jurisdiction. "Due process of law is satisfied when one present in court is convicted of a crime after having notice of the charges against him." ***Id.***, 131 Wis. 2d at 236, 388 N.W.2d at 608. Brown appeared before the court and was given a copy of the complaint. The trial court in 1994 had personal jurisdiction over Brown.

¶8 Brown also claims that the evidence was insufficient to convict him of first-degree intentional homicide because he did not intend to kill the victim, and that his trial lawyer was ineffective because the lawyer did not "contest" the charge. Again, we disagree.

¶9 A guilty plea waives the right to raise nonjurisdictional defects and defenses, including the sufficiency of the evidence. *See* ***County of Racine v. Smith***, 122 Wis. 2d 431, 434, 362 N.W.2d 439, 441 (Ct. App. 1984). Moreover, in cases where a defendant alleges ineffective assistance of counsel and the defendant's conviction is based on a guilty plea, the defendant "must allege facts to show 'that there is a reasonable probability that, but for the counsel's errors, he would not have pleaded guilty and would have insisted on going to trial.'" ***State v.***

Bentley, 201 Wis. 2d 303, 312, 548 N.W.2d 50, 54 (1996) (quoted source omitted). Brown has not done so. *See* ***Barakat***, 191 Wis. 2d at 786, 530 N.W.2d at 398. He also has not explained how his trial lawyer's failure to "contest" the intent element of first-degree intentional homicide was deficient representation, *see* ***Strickland v. Washington***, 466 U.S. 668, 687 (1984) (defendant claiming ineffective assistance must establish that: (1) the lawyer gave deficient performance, and (2) the defendant suffered prejudice as a result), or how such alleged deficient representation affected his decision to plead guilty, *see* ***id.***; ***Bentley***, 201 Wis. 2d at 309–310, 548 N.W.2d at 53 (trial court has the discretion to grant or deny an evidentiary hearing if the defendant presents only conclusory allegations).

¶10 The trial court properly denied Brown's WIS. STAT. § 974.06 motion for postconviction relief.

By the Court.—Order affirmed.

Publication in the official reports is not recommended.