

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 9, 2006

Cornelia G. Clark
Clerk of Court of Appeals

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.

Appeal No. 2005AP1728

Cir. Ct. No. 1993CF932552

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

MATTHEW BELTON,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JEFFREY A. WAGNER, Judge. *Affirmed.*

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

¶1 PER CURIAM. Matthew Belton appeals, *pro se*, from an order denying his WIS. STAT. § 974.06 (2003-04)¹ motion. He claims: (1) the trial court

¹ All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

erred in ruling that Belton was not improperly charged under WIS. STAT. § 939.63; (2) the sentencing court relied on inaccurate information; and (3) his plea colloquy was defective. Because Belton's claims are procedurally barred pursuant to *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), we affirm.

BACKGROUND

¶2 On July 15, 1993, Belton was charged with first-degree intentional homicide while armed. On January 19, 1994, he pled guilty to an amended charge of second-degree intentional homicide while armed. He was subsequently sentenced to twenty-five years in prison.

¶3 On November 24, 1995, he filed a motion seeking to withdraw his plea. The trial court conducted a hearing, but ultimately denied the motion. This court summarily affirmed the trial court's order denying Belton's plea withdrawal motion. The supreme court declined to accept Belton's petition for review of this court's decision.

¶4 On August 20, 1997, Belton brought a *pro se* postconviction motion seeking sentence modification. The trial court denied the motion. By letters dated October 17, 1997, and October 30, 1995, Belton requested a copy of his presentence investigation report for use in future legal proceedings. The trial court denied those requests on the basis that Belton had exhausted his appeal remedies.

¶5 On February 20, 1998, Belton filed another postconviction motion seeking sentence modification. The trial court denied the motion. Belton filed a notice of appeal with this court, but later voluntarily withdrew his appeal.

¶6 In August 1998, Belton filed a letter renewing his requests for a copy of his presentence investigation report. The trial court again denied his request.

Belton then filed a notice of appeal, but failed to file an appellate brief. Thus, his appeal was dismissed.

¶7 On September 15, 2004, Belton filed another postconviction motion seeking sentence modification. The trial court denied this motion. On June 2, 2005, Belton filed a WIS. STAT. § 974.06 postconviction motion, alleging that the trial court relied on inaccurate sentencing information, his plea colloquy was defective, and he was improperly charged. The trial court entered an order denying Belton's motion. Belton now appeals from that order.

DISCUSSION

¶8 As noted above, Belton raises three issues in this appeal. We conclude that all three issues are procedurally barred pursuant to *Escalona*.

¶9 *Escalona* bars defendants from raising issues in successive postconviction motions when the defendant has already raised them, or could have raised them, in his or her direct appeal, unless he or she sets forth a sufficient reason for having failed to previously assert the claims. *Id.*, 185 Wis. 2d at 181-82; *see also* WIS. STAT. § 974.06(4).

¶10 The purpose for this rule is clear:

We need finality in our litigation. Section 974.06(4) compels a prisoner to raise all grounds regarding postconviction relief in his or her original, supplemental or amended motion. Successive motions and appeals, which all could have been brought at the same time, run counter to the design and purpose of the legislation.

Escalona, 185 Wis. 2d at 185. Belton already brought and lost a direct appeal. Since then, he has filed numerous motions in the trial court, all of which have been denied. The procedural history in this case is one of the most flagrant violations of

Escalona that this court has seen. Belton offers no sufficient reason for his failure to raise the issues during his direct appeal and, therefore, he is procedurally barred from raising the issues in this appeal. It is time for this litigation to come to an end.

By the Court.—Order affirmed.

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

