COURT OF APPEALS
DECISION
DATED AND FILED

November 21, 2006

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 2004AP2807 **Cir. Ct. No. 1988CF882676**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

DAVID L. WILLIAMS,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County: MARY M. KUHNMUENCH, Judge. *Affirmed.*

Before Fine, Curley and Kessler, JJ.

¶1 PER CURIAM. David L. Williams appeals from an order denying his petition for a writ of habeas corpus, and from an order denying his reconsideration and sentence modification motions. We conclude that Williams's reasons for failing to previously or adequately raise the issues he now raises do not

overcome the procedural bar of ***State v. Escalona-Naranjo***, 185 Wis. 2d 168, 181-82, 517 N.W.2d 157 (1994). Therefore, we affirm.

¶2 A jury found Williams guilty of two armed robberies, in violation of WIS. STAT. § 943.32(1)(a) and (2) (1987-88); the trial court imposed two twelve-year consecutive sentences. Williams moved for a new trial, which the trial court denied. He then filed a direct appeal from the judgment of conviction and the order denying his new trial motion. This court affirmed that judgment and order. *See* ***State v. Williams***, No. 90-2857-CR, unpublished slip op. at 2 (Wis. Ct. App. Oct. 22, 1991) ("***Williams I***"). In 1992, Williams filed a *pro se* postconviction motion pursuant to WIS. STAT. § 974.06 (amended May 12, 1992), which the trial court denied; Williams did not appeal from that denial. ("***Williams II***"). In 1994, Williams petitioned this court directly for a writ of habeas corpus, challenging the effectiveness of appellate counsel, which we denied. ("***Williams III***"). In 1995, Williams moved for sentence modification, which was denied by the trial court; we affirmed that denial. ("***Williams IV***").

¶3 In 2004, Williams filed his second petition for a writ of habeas corpus. ("***Williams V***"). His principal reasons for failing to previously or adequately raise the issues he raises in ***Williams V*** (and his reasons for failing to appeal in ***Williams II***) are the ineffective assistance of trial and postconviction counsel, and his limited access to the correctional institution's law library when the institution was under lockdown. After the trial court's denial of the ***Williams V*** petition, Williams sought reconsideration or sentence modification, which were also denied. ("***Williams VI***"). Williams now appeals from the orders in ***Williams V*** and ***VI***.

¶4 A postconviction movant must raise all grounds for postconviction relief on direct appeal (or in his or her original, supplemental or amended postconviction motion) unless, in a subsequent postconviction motion, he or she alleges a sufficient reason for failing to previously raise these issues. *See* ***Escalona***, 185 Wis. 2d at 185-86. Whether Williams's reasons for failing to raise or for attempting to resurrect these (allegedly inadequately presented) issues previously were sufficient to overcome ***Escalona***'s procedural bar is subject to an independent standard of review. *See* ***State v. Tolefree***, 209 Wis. 2d 421, 424, 563 N.W.2d 175 (Ct. App. 1997).

¶5 Williams's reasons for failing to previously or adequately raise these issues (counsels' ineffectiveness and the lockdown) are related to his reasons for failing to appeal from the order denying his postconviction motion in ***Williams II***, in which he raised many of the same or related issues he raises in ***Williams V*** and ***VI***. His counsels' alleged ineffectiveness is not a sufficient reason because he raised many of these issues in his ***Williams II*** *pro se* motion. Thus, he cannot legitimately blame counsel for failing to pursue a denial in ***Williams II*** in which he appeared *pro se*. He also does not explain why library access was required to file a notice of appeal. Nevertheless, these issues (or variations thereof) have been addressed in ***Williams I*** and ***IV***. We consequently conclude that Williams's reasons for failing to previously or adequately raise these or related issues are not sufficient to overcome ***Escalona***'s procedural bar to compel (re-)litigation of the issues in ***Williams V*** and ***VI***. *See* ***Tolefree***, 209 Wis. 2d at 424.

By the Court.—Orders affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (2003-04).