

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**February 6, 2007**

A. John Voelker  
Acting 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. 2006AP908**

**Cir. Ct. No. 1975CF6035**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

---

**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**WILLIAM NORMAN STAPLES,**

**DEFENDANT-APPELLANT.**

---

APPEAL from an order of the circuit court for Milwaukee County:  
TIMOTHY G. DUGAN, Judge. *Affirmed.*

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

¶1 PER CURIAM. William Norman Staples appeals *pro se* from an order denying his WIS. STAT. § 974.06 (2003-04)<sup>1</sup> postconviction motion. Staples

---

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

contends that he was improperly charged with attempted first-degree murder because the charge does not exist. He also contends he received ineffective assistance of counsel. Because Staples' contentions are incorrect and without merit, we affirm.

## BACKGROUND

¶2 On December 16, 1975, Staples was charged with attempted first-degree murder. The charge stemmed from an incident in which Staples pointed a gun at Eddie Boyd and fired a bullet which struck Boyd in the face. Staples pled guilty and was convicted of one count of attempted first-degree murder.

¶3 On March 8, 2006, Staples filed a *pro se* motion for expungement of his felony for attempted first-degree murder. The trial court denied the motion noting: "The defendant was properly charged under sections 940.01 and 939.32, Wis. Stats. His motion is frivolous."

¶4 Staples now appeals from that order.

## DISCUSSION

¶5 Staples claims he was improperly charged and that the charge of attempted first-degree murder does not exist in the state. Staples is simply wrong.

¶6 Staples' reliance on *State v. Briggs*, 218 Wis. 2d 61, 579 N.W.2d 783 (Ct. App. 1998) is misplaced. *Briggs* addressed whether the state can charge attempted felony murder, not attempted first-degree murder. *Id.* at 65.

¶7 Based on the facts in this case, there was nothing improper with the State's charge of attempted first-degree murder. Staples pointed a gun at Boyd and fired a bullet, which struck Boyd in the face. "The law presumes that a person

intends the natural and probable consequences of his own acts.” *Gelhaar v. State*, 41 Wis. 2d 230, 243, 163 N.W.2d 609 (1969) (citation omitted). Thus, the State had a sufficient basis to assert that Staples attempted to murder the victim in this case.

¶8 There was nothing improper with the State’s charge in this case, the court had proper jurisdiction to convict Staples, and he is not entitled to expungement. The trial court did not err in so ruling.

¶9 In addition, because the issue Staples raises is without merit, it logically follows that any claim that his trial counsel was ineffective for failing to raise the meritless issue must fail as well. Trial counsel cannot be ineffective for failing to raise a non-meritorious issue. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984).

*By the Court.*—Order affirmed.

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

