

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 29, 2007

David R. Schanker
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. 2006AP1756-CR

Cir. Ct. No. 1992CM3242

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

EVELIO DUARTE-VESTAR,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
STEVEN D. EBERT, Judge. *Affirmed.*

¶1 HIGGINBOTHAM, P.J.¹ Evelio Duarte-Vestar appeals a court order denying his postconviction motion seeking a sentence correction. We

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2005-06). All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

conclude that this appeal is barred pursuant to *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). We affirm.

¶2 Duarte-Vestar was convicted following a jury trial held on January 4-5, 1993, of violation of a domestic abuse injunction, battery, criminal trespass to dwelling, and two counts of misdemeanor bail jumping, all as a repeater. He was sentenced on February 1, 1993. Duarte-Vestar has filed multiple postconviction motions raising numerous challenges. In his first postconviction motion, Duarte-Vestar argued that his sentence was inappropriately enhanced under the repeater statute, WIS. STAT. § 939.62(1)(a) (1991-92), on several grounds. He also challenged his convictions for bail jumping. The circuit court denied the motion on November 18, 1993. Duarte-Vestar appealed that order in Case No. 1993AP3163-CR. We dismissed that appeal on May 5, 1994, because Duarte-Vestar failed to file his appellate brief. We also denied his motion for reconsideration of our May 5, 1994 dismissal.

¶3 In the instant postconviction motion, Duarte-Vestar appears to argue that the sentence he received in this case was illegally or unconstitutionally obtained. Frankly, his brief is rather incoherent and difficult to follow. Also, Duarte-Vestar's arguments are conclusory without citation to the record or analysis of the legal issues he wishes for us to consider. The best we can determine is that Duarte-Vestar asserts that the charges for which he was convicted find no support in the record, that his sentences were inappropriately enhanced by application of the repeater statute, and that, based on the allegations set forth in the instant postconviction motion, he was entitled to an evidentiary hearing.

¶4 Under WIS. STAT. § 974.06(4) and *Escalona-Naranjo*, a claim that was or could have been raised in a subsequent § 974.06 postconviction motion is procedurally barred, absent a sufficient reason for the failure to raise the claim on direct appeal. *State v. Lo*, 2003 WI 107, ¶44, 264 Wis. 2d 1, 665 N.W.2d 756. Convicted defendants are not entitled to pursue an endless success of postconviction remedies. *See Escalona-Naranjo*, 185 Wis. 2d at 185. We review de novo whether Duarte-Vestar has met the requirements of *Escalona-Naranjo* and § 974.06(4). *State v. Tolefree*, 209 Wis. 2d 421, 424, 563 N.W.2d 175 (Ct. App. 1997).

¶5 We conclude that this appeal is barred by *Escalona-Naranjo*. Duarte-Vestar has filed multiple postconviction motions and in at least one such motion he raised some of the issues he raises in this appeal. In none of his postconviction motions has Duarte-Vestar prevailed. He gives us no reason to revisit issues previously raised and rejected. In addition, to the extent that Duarte-Vestar raises new issues in this appeal, he fails to explain why he did not raise them in his previous postconviction motions.

¶6 For the foregoing reasons, we affirm the circuit court's order denying Duarte-Vestar's postconviction motion to correct his sentence.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

