COURT OF APPEALS
DECISION
DATED AND FILED

September 25, 2008

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2008AP116 **Cir. Ct. No. 2002CF991**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

CLAIR ELLSWORTH VISGAR,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Rock County: MICHAEL J. BYRON, Judge. *Affirmed*.

Before Higginbotham, P.J., Dykman and Lundsten, JJ.

¶1 PER CURIAM. Clair Ellsworth Visgar appeals an order denying WIS. STAT. § 974.06 (2005-06)[1] relief from a conviction for substantial battery as a habitual criminal. Visgar pled guilty and was sentenced in May 2004. His postconviction motion and supplemental motion alleged four grounds to withdraw his plea. The circuit court denied the motions, and we affirm.

¶2 Visgar alleged in his motions that his speedy trial right was violated. However, a defendant who pleads guilty waives his or her right to a speedy trial. ***Hatcher v. State***, 83 Wis. 2d 559, 563, 266 N.W.2d 320 (1978). Even were that not the case, Visgar withdrew his speedy trial demand before he entered his plea. Additionally, the record does not contain a speedy trial demand. Counsel indicated that, "to the best that we can figure out," Visgar demanded a speedy trial at his initial appearance, for which there is no transcript. If counsel was correct, the demand did not comply with the criteria for an enforceable demand because Visgar made it before the information was filed. *See* WIS. STAT. § 971.10(2)(a) ("[A speedy trial] demand may not be made until after the filing of the information or indictment.").

¶3 Visgar next alleged that he was unable to comprehend the consequences of his plea due to the psychotropic drugs he was taking when he entered his plea. To obtain relief on a postconviction motion, the defendant must state sufficient facts to allow the reviewing court to meaningfully assess the claim. *See* ***State v. Allen***, 2004 WI 106, ¶21, 274 Wis. 2d 568, 682 N.W.2d 433. The defendant may not rely on conclusory allegations. *See* ***id.***, ¶9. Here, Visgar

[1] All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

alleged that he was on psychotropic medications, a fact that was acknowledged and discussed during the plea hearing. At the time, Visgar denied that his medications had any effect on his understanding of the proceeding. His motions did not state the quantity of each medication prescribed, nor did they even list all of the medications he was taking. There were no allegations as to what effect the medications had on his ability to comprehend, or why, at the hearing, he denied that they affected him. Consequently, his claim was conclusory and lacked sufficient information to meaningfully assess it.

¶4 Visgar next alleged that the presiding judge should have transferred venue to another county because the judge knew the father of Visgar's victim as a person who formerly ran courthouse security, was a retired police officer, and was formerly president of the Beloit city council. The presiding judge informed the parties that he knew the victim's father, but stated that they did not have a social relationship, and their professional contacts would not affect the judge's impartiality. Defense counsel stated that he had discussed the matter with Visgar, and that Visgar had no problem with the judge continuing to preside. When asked to confirm counsel's statement, Visgar personally confirmed it. Visgar's claim that the judge was biased is therefore waived. If it was error for the judge to continue presiding, Visgar invited that error. *See* ***Shawn B.N. v. State***, 173 Wis. 2d 343, 372, 497 N.W.2d 141 (Ct. App. 1992) (this court will not review invited error). Visgar's claim fails in any event because he did not allege any actual bias in the proceeding.

¶5 Finally, Visgar alleged ineffective assistance from his trial attorneys in their failure to raise the speedy trial, medication, and judicial bias issues during the proceeding. As we have held, there was no basis to claim a speedy trial violation, and Visgar waived his judicial bias claim on the record. Also, as

discussed above, Visgar alleged insufficient facts to obtain a hearing on his claim that he was too medicated to understand the proceeding. He has similarly alleged insufficient facts to obtain a hearing on his claim that counsel should have raised the issue at the time.

By the Court.—Order affirmed.

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