

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 15, 2008

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. 2007AP1769

Cir. Ct. No. 1975CF5829

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

LEONARD COLLINS, SR.,

DEFENDANT-APPELLANT.

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

Before Curley, P.J., Fine, J., and Daniel L. LaRocque, Reserve
Judge.

¶1 PER CURIAM. Leonard Collins, Sr., was convicted in 1976 of the first-degree murder of his mother-in-law. Since that time, Collins has filed numerous postconviction motions and appeals, without obtaining relief. Collins

now appeals a circuit court order denying his most recent postconviction motion. The circuit court held that Collins' postconviction motion was procedurally barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181-82, 517 N.W.2d 157 (1994) (postconviction claims that could have been raised in prior postconviction or appellate proceedings are barred absent a sufficient reason for failing to raise the claims in the earlier proceedings). We agree with the circuit court that Collins's motion is barred by *Escalona-Naranjo*, and we therefore affirm the circuit court's order.

¶2 Prior to her death, Collins' mother-in-law told police that Collins had stabbed her repeatedly with a "dagger." After Collins was found guilty, he was sentenced to life in prison. In March 1977, he filed a postconviction motion. In July 1978, he filed a WIS. STAT. § 974.06 motion. In July 1979, he filed his direct appeal. In April 1984, he filed his second § 974.06 postconviction motion. In 1989, he filed another § 974.06 motion. In April 1993, he filed another postconviction motion. In February 1994, he filed another § 974.06 motion. In August 1997, he filed another postconviction motion. In June 2000, he filed a motion seeking sentence modification. In October 2004, he filed what he termed a "sentence modification" motion that claimed the original circuit court had lacked jurisdiction over him. All of Collins' motions were denied. None of his subsequent appeals were successful.

¶3 In the postconviction motion that is the subject of this appeal, Collins raised numerous issues, most of which had been raised in prior motions, albeit in slightly different form. Among other things, he claimed that: (1) he was entitled to a new trial because he was never properly examined pursuant to court order to determine if he was competent to stand trial. As a consequence, he was deprived of the opportunity to claim he was not guilty by reason of mental disease

or defect; (2) he was improperly excluded by the circuit court at various points in the proceedings; (3) his trial counsel's belief in his guilt "undermined" his case; (4) the State falsified the criminal complaint, which was also insufficient, apparently because the medical report describing the victim's treatment did not specifically mention that she had been stabbed; (5) the victim's death was due to medical error, not stab wounds; and (6) his postconviction and appellate counsel "intentionally sabotaged" his appeal when he discovered Collins could not pay him.¹

¶4 As noted, Collins' arguments are, in large part, a rehash of arguments he made in earlier postconviction proceedings. By appealing, he implies that the circuit court's application of *Escalona-Naranjo* was incorrect, but he does not offer any specific argument in support of this suggestion.

¶5 In *Escalona-Naranjo*, the supreme court, noting that WIS. STAT. § 974.06(4) states that any ground for appeal not raised "in the proceeding that resulted in the conviction or sentence or in any other proceeding the person has taken to secure relief may not be the basis for a subsequent motion," held:

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

¹ Collins also detailed several complaints about the Department of Corrections and the conditions of his incarceration, which he contended were new factors warranting sentence modification. The circuit court correctly denied Collins' complaints, reasoning that the complaints had no direct relation to his conviction or sentence and therefore were not a basis for sentence modification. The circuit court correctly held that Collins could challenge parole-denial determinations "by filing a timely petition for writ of certiorari."

In his appeal, Collins raises the same claims, but does not directly address the circuit court's holding. Therefore, we will not address that holding further.

time, run counter to the design and purpose of the legislation.

...

[W]e simply apply the plain language of subsection (4) which requires a *sufficient reason* to raise a constitutional issue in a sec. 974.06 motion that *could have been raised* on direct appeal or in a sec. 974.02 motion.

Escalona-Naranjo, 185 Wis. 2d at 185 (emphasis added).

¶6 If there was ever an instance to apply *Escalona-Naranjo*, this is certainly the one. Through the years, Collins has pursued numerous unsuccessful postconviction motions and appeals, including an appeal challenging the application of *Escalona-Naranjo* to him. In the postconviction motion under review here, Collins presented few, if any, new arguments, and he offered no reason, much less a sufficient reason, for his failure to raise those arguments in his prior motions and appeals.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2005-06).

