

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**January 10, 2002**

Cornelia G. Clark  
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. 01-0607**  
**STATE OF WISCONSIN**

**Cir. Ct. No. 94-CF-99**

**IN COURT OF APPEALS  
DISTRICT IV**

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**STATE OF WISCONSIN,**  
  
**PLAINTIFF-RESPONDENT,**  
  
**V.**  
  
**DUANE R. BULL,**  
  
**DEFENDANT-APPELLANT.**

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APPEAL from an order of the circuit court for Columbia County:  
LEWIS MURACH, Judge. *Affirmed.*

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

¶1 PER CURIAM. Duane Bull appeals from an order denying his motion for postconviction relief filed pursuant to WIS. STAT. § 974.06 (1999-

2000).<sup>1</sup> His motion raised numerous issues concerning a 1995 sexual assault conviction, and subsequent postconviction proceedings. We conclude that the trial court properly denied relief on the motion, and therefore we affirm.

¶2 Bull entered no contest pleas to five counts of second-degree sexual assault of a child, and was sentenced to five consecutive ten-year prison terms. In postconviction proceedings under WIS. STAT. RULE 809.30, he moved to withdraw his plea alleging, among others, that he received ineffective assistance of trial counsel. He also sought a reduced sentence. The trial court denied relief, and we affirmed that decision and the judgment of conviction. In Bull's WIS. STAT. § 974.06 motion, filed in August 2000, he raised a number of new issues, including ineffective assistance of postconviction counsel, and several issues previously litigated. The trial court denied relief on all claims without an evidentiary hearing.

¶3 Bull contends that the trial court erred by denying relief on the following issues: (1) whether postconviction counsel negligently failed to obtain all transcripts before representing him on his postconviction motions; (2) whether postconviction counsel should have raised issues concerning a defense presentence report and presentence psychological evaluation; (3) whether postconviction counsel negligently failed to call the presentence investigator as a witness in the postconviction proceeding; (4) whether postconviction counsel negligently failed to pursue issues of bribery and harassment; (5) whether the State breached Bull's plea agreement; (6) whether Bull received effective assistance of trial counsel;

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<sup>1</sup> All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

(7) whether the State failed to disclose an inventory of physical evidence in the case; (8) whether the State violated Bull's Fourth and Fifth Amendment rights in obtaining evidence and statements; and (9) whether the trial court erroneously exercised its sentencing discretion.

¶4 The trial court properly denied Bull's claims of ineffective assistance of postconviction counsel without holding an evidentiary hearing on them. If the postconviction motion fails to allege sufficient facts, the circuit court may, in its discretion, deny the motion without a hearing. *State v. Bentley*, 201 Wis. 2d 303, 310-11, 548 N.W.2d 50 (1996). This properly occurs if the motion fails to raise a question of fact, presents only conclusory allegations, or the record conclusively demonstrates that the defendant is not entitled to relief. *Id.* at 309-10. Here, Bull failed to identify the transcripts or records counsel allegedly failed to obtain and their significance to any postconviction proceedings. He offered no explanation as to why he was prejudiced by failure to raise issues concerning his presentence investigative report, and the record discloses no potentially meritorious issues in that regard. The remaining issues of postconviction counsel's ineffectiveness are raised for the first time on appeal, and therefore waived. *See State v. Caban*, 210 Wis. 2d 597, 604-05, 563 N.W.2d 501 (1997).

¶5 The remainder of the issues Bull raises on appeal are procedurally barred. All grounds for relief from a criminal conviction must be raised in the initial postconviction motion and/or appeal unless the defendant provides a sufficient reason why the grounds for relief were not asserted in the earlier proceedings. *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 184-85, 517 N.W.2d 157 (1994). Bull failed to offer the trial court any plausible explanation why he could not have raised all of his remaining issues in his previous WIS. STAT. RULE 809.30 motion, or in his appeal.

*By the Court.*—Order affirmed.

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

