

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 7, 2009

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. 2008AP384

Cir. Ct. No. 2004CF2374

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

CLETES MARK CRAWFORD,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
M. JOSEPH DONALD, Judge. *Affirmed.*

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

¶1 PER CURIAM. Cletes Mark Crawford, *pro se*, appeals from an order¹ denying his motion for postconviction relief under WIS. STAT. § 974.06

¹ The order appealed from was entered by the Honorable M. Joseph Donald. The Honorable John Franke presided over Crawford's trial and sentencing.

(2007-08).² The circuit court denied Crawford's motion as procedurally barred under *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). We affirm.

¶2 A jury found Crawford guilty of first-degree reckless injury, first-degree recklessly endangering safety, and endangering safety by reckless use of a firearm. Crawford appealed. This court affirmed. *State v. Crawford*, No. 2005AP2072-CR, unpublished slip op. (WI App July 13, 2006). In that direct appeal, Crawford challenged the sufficiency of the evidence to support the jury's verdict, specifically pointing out inconsistencies in the testimony of John Weatherspoon and Roslyn Brown. *Id.*, unpublished slip op. at 2-4. This court rejected Crawford's argument that the testimony of Weatherspoon and Brown was incredible as a matter of law and concluded that "[c]ombined with other testimony, including that of a disinterested passerby, the inculpatory parts of Brown's and Weatherspoon's testimony allowed a reasonable jury to find guilt beyond a reasonable doubt." *Id.*, unpublished slip op. at 3. The supreme court denied Crawford's petition for review.

¶3 On December 7, 2007, Crawford filed a *pro se* WIS. STAT. § 974.06 motion for postconviction relief. In a long, rambling and disjointed submission, Crawford argued that the State presented perjured testimony at trial; that his constitutional right to confront witnesses was violated when the court limited cross-examination of certain witnesses at the preliminary examination; that his trial attorney did not present a "proper defense" and should have requested the

² All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

submission of a lesser-included-offense; and that his arrest was illegal. The circuit court denied Crawford's motion as barred by *Escalona-Naranjo*. The circuit court also rejected Crawford's contention that his appellate attorney was ineffective for not signing a certification under WIS. STAT. RULE 809.32(1)(c), because Crawford's direct appeal was not a no-merit appeal and, therefore, the certification requirement in RULE 809.32(1)(c) did not apply.

¶4 Crawford appeals, and in another barely comprehensible filing, he renews the arguments he made to the circuit court.

¶5 A defendant cannot raise an argument in a subsequent postconviction motion that was not raised in a prior postconviction motion unless there is a sufficient reason for the failure to allege or adequately raise the issue in the original motion. *Escalona-Naranjo*, 185 Wis. 2d at 181-82. A defendant must "raise all grounds regarding postconviction relief in his or her original, supplemental or amended motion." *Id.* at 185; *see also* WIS. STAT. § 974.06(4) ("Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived ... in any other proceeding the person has taken to secure relief may not be the basis for a subsequent motion," absent sufficient reason.).

[A] criminal defendant [is] required to consolidate all postconviction claims into his or her original, supplemental, or amended motion. If a criminal defendant fails to raise a constitutional issue that could have been raised on direct appeal or in a prior § 974.06 motion, the constitutional issue may not become the basis for a subsequent § 974.06 motion unless the court ascertains that a sufficient reason exists for the failure either to allege or to adequately raise the issue in the appeal or previous § 974.06 motion.

State v. Lo, 2003 WI 107, ¶31, 264 Wis. 2d 1, 665 N.W.2d 756 (citations omitted).

Moreover, issues previously considered on direct appeal cannot be reconsidered

on a motion under WIS. STAT. § 974.06. *State v. Brown*, 96 Wis. 2d 238, 241, 291 N.W.2d 528 (1980).

¶6 Crawford’s complaints about perjured testimony, the nature of his defense, and whether a lesser-included-offense should have been requested are nothing more than continued attacks on the credibility of Weatherspoon and Brown and to the sufficiency of the evidence. Crawford does not offer any reason, let alone a sufficient reason, why his other arguments were not raised in his direct appeal.³

¶7 “[D]ue process for a convicted defendant permits him or her a single appeal of [a] conviction and a single opportunity to raise claims of error” *State ex rel. Macemon v. Christie*, 216 Wis. 2d 337, 343, 576 N.W.2d 84 (Ct. App. 1998). As the supreme court has stated, “[w]e need finality in our litigation.” *Escalona-Naranjo*, 185 Wis. 2d at 185. Crawford’s current motion is both frivolous and procedurally barred.

By the Court.—Order affirmed.

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

³ We concur with the State’s assessment that Crawford’s complaint that his appellate counsel did not certify a no-merit report is frivolous because Crawford’s direct appeal was not a no-merit appeal.

