

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 17, 2011

A. John Voelker
Acting 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. 2010AP1711

Cir. Ct. No. 1997CF975422

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

DAVID ALLEN ZIEGLER,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
CARL ASHLEY, Judge. *Affirmed.*

Before Fine, Kessler and Brennan, JJ.

¶1 PER CURIAM. David Allen Ziegler, *pro se*, appeals an order denying his motion for postconviction relief under WIS. STAT. § 974.06

(2009-10).¹ He also appeals an order denying his motion for reconsideration. He argues that his sentence should be modified. We conclude Ziegler’s claim is barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). Therefore, we affirm.

¶2 “[A]ny claim that could have been raised on direct appeal or in a previous Wis. Stat. § 974.06 ... postconviction motion is barred from being raised in a subsequent § 974.06 postconviction motion, absent a sufficient reason.” *State v. Lo*, 2003 WI 107, ¶2, 264 Wis. 2d 1, 665 N.W.2d 756 (footnote omitted); *Escalona-Naranjo*, 185 Wis. 2d at 181-82. “[D]ue process for a convicted defendant permits him or her a single appeal of that 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). “Successive, and often reformulated, claims clog the court system and waste judicial resources.” *Id.*

¶3 After his conviction in 1998 on drug charges, Ziegler filed a direct appeal. We affirmed the judgment of conviction. After his direct appeal, Ziegler filed a petition for writ of *habeas corpus*, which the circuit court construed as a postconviction motion under WIS. STAT. § 974.06. The circuit court denied the motion. Ziegler appealed and we affirmed the denial. Ziegler then filed another § 974.06 motion in the circuit court, which was denied. This appeal is taken from that order.

¶4 Ziegler’s current claims are barred under *Escalona-Naranjo* because he did not raise them in his prior postconviction motions and appeals to this court,

¹ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

and he has not alleged a sufficient reason for failing to previously raise these issues. As so succinctly stated by our supreme court in *Escalona-Naranjo*, “[w]e need finality in our litigation.” *Id.*, 185 Wis. 2d at 185. Therefore, we conclude that Ziegler is subject to the procedural bar of *Escalona-Naranjo* and its progeny.

By the Court.—Orders affirmed.

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

