

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 20, 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. 2010AP2138

Cir. Ct. No. 2003CF138

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

JOSE M. JAIMES,

DEFENDANT-APPELLANT.

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

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

¶1 PER CURIAM. Jose M. Jaimes, *pro se*, appeals the circuit court's order denying his motion for postconviction relief under WIS. STAT. § 974.06. He contends that his right to a speedy trial was violated. We affirm.

¶2 Jaimes was convicted of two counts of delivery of cocaine in 2004. He filed a direct appeal, arguing that there was prosecutorial misconduct and he was subject to double jeopardy. We affirmed the conviction. Four years later, Jaimes filed a motion under WIS. STAT. § 974.06, arguing that his right to a speedy trial had been violated. The circuit court rejected the argument, concluding that it was procedurally barred under *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157, 163–164 (1994).

¶3 “[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, 4–5, 665 N.W.2d 756, 758 (footnote omitted); *see also Escalona-Naranjo*, 185 Wis. 2d at 185, 517 N.W.2d at 164. “[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, 86 (Ct. App. 1998). “Successive, and often reformulated, claims clog the court system and waste judicial resources.” *Id.*, 216 Wis. 2d at 343, 576 N.W.2d at 87.

¶4 Jaimes contends that he did not previously raise his speedy trial argument because he was represented by an attorney during his direct appeal who failed to recognize the merit in the issue. He explains that he did not raise the issue *pro se* earlier because a motion under WIS. STAT. § 974.06 may not be filed while a direct appeal of the same case is pending. *See State v. Redmond*, 203 Wis. 2d 13, 17, 552 N.W.2d 115, 117 (Ct. App. 1996) (no collateral appeal may be taken while a direct appeal is still under consideration).

¶5 Jaimes has not provided a sufficient reason for failing to previously raise the speedy trial issue. He has not explained why he did not bring the issue to the attention of his attorney during the direct appeal. Moreover, Jaimes has not provided any reason for failing to raise the issue *pro se* in the four years since his direct appeal was decided in 2006. Therefore, Jaimes is subject to the procedural bar of *Escalona-Naranjo* and its progeny.

By the Court.—Order affirmed.

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

