

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 19, 2005

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. 04-0397
STATE OF WISCONSIN**

Cir. Ct. No. 94CF942984

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

CHESTER LEE HILL,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
TIMOTHY G. DUGAN, Judge. *Affirmed.*

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

¶1 PER CURIAM. Chester Lee Hill appeals *pro se* from an order denying his WIS. STAT. § 974.06 (2001-02)¹ motion. The trial court denied the

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

motion on the ground that Hill's claims of insufficient evidence and speedy trial violations were barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). Hill claims that the trial court erred in ruling that his claim was procedurally barred. Because the trial court did not err in ruling that Hill's claim was barred by *Escalona-Naranjo*, we affirm.

BACKGROUND

¶2 In May 1995, Hill was convicted of two counts of armed robbery, two counts of kidnapping, and three counts of first-degree sexual assault. He was sentenced to seven consecutive forty-year prison terms. Hill filed a direct appeal following his conviction. This court affirmed the judgment and the Wisconsin Supreme Court denied Hill's petition for review.

¶3 In November 1998, Hill filed a *pro se* motion seeking to modify his sentence, which raised the issue of his right to a speedy trial and his claim that no physical evidence linked him to the crimes. On December 2, 1998, the trial court denied the motion. On December 10, 2003, Hill filed a *pro se* WIS. STAT. § 974.06 motion, claiming that his right to a speedy trial was violated and that the DNA test results were inconclusive. The trial court denied his motion, ruling that his claims were procedurally barred by *Escalona-Naranjo*. Hill appeals from that order.

DISCUSSION

¶4 Hill contends the trial court erred in denying his motion based on *Escalona-Naranjo*. We reject his contention.

¶5 WISCONSIN STAT. § 974.06 and *Escalona-Naranjo* require a defendant to raise all grounds for postconviction relief in his or her original

motion or appeal. The reason for this is that we need finality in our litigation. *Escalona-Naranjo*, 185 Wis. 2d at 185. Accordingly, when we are presented with § 974.06 motions raising issues either previously raised or which could have been raised in a previous motion or appeal, we hold that the claims are procedurally barred absent a sufficient reason for failing to raise them previously. *See id.*

¶6 Here, Hill presents claims in his WIS. STAT. § 974.06 motion which were either previously raised and rejected, or could have been raised in his direct appeal. Further, he did not provide the trial court any reason, much less a sufficient one, for his failure to raise the current claims in his earlier direct appeal. Subsequent to the trial court's denial of his motion, in a motion for reconsideration, Hill attempted to offer ineffective assistance as a reason for failing to raise his speedy trial claim. His attempt, however, failed to satisfy the requisite standard.

¶7 Hill offers no explanation regarding his failure to raise evidentiary insufficiency in his direct appeal. He presents ineffective assistance only as an explanation relative to the failure to raise speedy trial violations. However, his ineffective assistance explanation is conclusory in nature; Hill failed to support the claim with any factual allegations. To satisfy the "sufficient reason" standard, Hill has to allege something more than simply asserting that his counsel denied him the right to a meaningful appeal. Accordingly, the trial court did not err in ruling that Hill's motion was procedurally barred.

By the Court.—Order affirmed.

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

