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DISTRICT II

September 11, 2024

To:

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Circuit Court Judge
Electronic Notice

Joshua Hargrove
Electronic Notice

Tara Berry
Clerk of Circuit Court
Winnebago County Courthouse
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Jacob J. Wittwer
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You are hereby notified that the Court has entered the following opinion and order:

2022AP1710

State of Wisconsin v. Zachary B. Reid (L.C. # 2008CF682)

Before Gundrum, P.J., Grogan and Lazar, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Zachary Reid appeals an order denying his postconviction motion brought pursuant to WIS. STAT. § 974.06 (2021-22),¹ and an order denying his motion for reconsideration. Reid argues that: (1) he received ineffective assistance of both trial counsel and postconviction counsel; (2) the circuit court erred in admitting his poetry as evidence at trial; and (3) the circuit court should not have denied his current motion without a hearing. Based upon our review of the

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We summarily affirm.

In October 2008, sixteen-year-old Reid strangled his father to death during a confrontation at their home in Neenah, Wisconsin. Reid admitted to the killing but claimed it was in self-defense after his father threatened him with a knife. According to Reid, he placed his father in a chokehold to disarm him but inadvertently caused his death. Afterward, Reid wrapped his father's body in a blanket, put a plastic bag over his head, secured it with a belt, and placed the body in the trunk of a car, which he abandoned in a school parking lot. Reid then spent the evening with friends. He was later arrested and charged as an adult with first-degree intentional homicide. Despite arguing self-defense at trial, Reid was convicted in June 2009 and sentenced to life imprisonment with the possibility of parole after forty years.

Reid filed a motion for postconviction relief, arguing that he received ineffective assistance of trial counsel because his attorney pursued a flawed hybrid defense strategy arguing both self-defense and battered child syndrome. Reid also argued that his trial counsel should have pursued an involuntary intoxication defense, that the circuit court improperly excluded evidence of Reid's father's violent acts, and that the circuit court's sentence constituted cruel and unusual punishment. The circuit court denied the motion after an evidentiary hearing. On direct appeal, we affirmed the judgment of conviction and order denying postconviction relief. *See State v. Reid*, No. 2010AP3027-CR, unpublished slip op. (WI App Feb. 29, 2012).

In 2022, Reid filed his current motion under WIS. STAT. § 974.06. The circuit court denied it without a hearing.

To establish ineffective assistance of counsel, a person must show that counsel performed deficiently and the deficient performance prejudiced his defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). In addition, a person arguing that he or she received ineffective assistance of postconviction/appellate counsel must also show that the claims he or she contends should have been raised are clearly stronger than the issues that postconviction counsel chose to pursue. *State v. Romero-Georgana*, 2014 WI 83, ¶¶45-46, 360 Wis. 2d 522, 849 N.W.2d 668.

Reid’s current claims are procedurally barred under *Romero-Georgana*, 360 Wis. 2d 522, ¶¶45-46. Reid has not demonstrated that his new claims are clearly stronger than the claims previously raised by his postconviction counsel, which is required for him to overcome the procedural bar. Under *Romero-Georgana*, a defendant who raises new claims of ineffective assistance of counsel in a successive motion must demonstrate that these claims are “clearly stronger” than the claims that were actually raised by postconviction counsel in the initial postconviction proceedings. Here, Reid did not even attempt to show that his new claims are clearly stronger than the ones his counsel previously raised. Reid did not analyze or compare the strengths and weaknesses of the original claims against the new ones. Reid did not explain why his current claims—such as the failure to object to the admission of his poetry and lyrics—are stronger than the claims that were actually raised, such as the challenge to the hybrid self-defense strategy used at trial. Without this necessary comparison, Reid has failed to meet the pleading requirements established in *Romero-Georgana*. Consequently, the circuit court correctly denied Reid’s motion as procedurally barred, as he did not sufficiently demonstrate that the new claims were “clearly stronger” than those already litigated in his initial postconviction motion.

Accordingly,

IT IS ORDERED that the orders of the circuit court are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals