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**DISTRICT II**

December 27, 2013

To:

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Circuit Court Judge  
Racine County Courthouse  
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You are hereby notified that the Court has entered the following opinion and order:

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2013AP1239

State of Wisconsin v. Timothy J. Kaprelian (L.C. # 2006CF823)

Before Brown, C.J., Neubauer, P.J., and Gundrum, J.

Timothy J. Kaprelian appeals pro se from an order denying his motions for postconviction relief. He contends that he should have been allowed to withdraw his no contest pleas. He further contends that the circuit court should have recused itself from hearing his plea withdrawal request due to bias. Based upon our review of the briefs and record, we conclude at

conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>1</sup> We affirm the order of the circuit court.

In 2007, Kaprelian was convicted following pleas of no contest to two counts of second-degree sexual assault and one count of false imprisonment. The circuit court sentenced Kaprelian to an aggregate sentence of fifty years of imprisonment, with thirty years of initial confinement and twenty years of extended supervision.

Since his conviction, Kaprelian has pursued multiple motions for postconviction relief, resulting in two prior merit appeals. In *State v. Kaprelian*, No. 2009AP554-CR, unpublished op. and order (WI App May 5, 2010), we rejected Kaprelian's argument that he was entitled to resentencing based upon the circuit court's failure to consider sentencing guidelines. In *State v. Kaprelian*, No. 2012AP396, unpublished op. and order (February 13, 2013), we rejected Kaprelian's argument that the circuit court should have recused itself due to bias and that he was entitled to an evidentiary hearing on his claim of ineffective assistance of counsel.

In May 2013, Kaprelian filed his latest motions for postconviction relief, seeking withdrawal of his no contest pleas and the recusal of the circuit court from hearing his plea withdrawal request due to bias. The circuit court denied Kaprelian's motions. This appeal follows.

"We need finality in our litigation." *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). Therefore, any claim that could have been raised in a prior

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version.

postconviction motion or direct appeal cannot form the basis for a subsequent motion under WIS. STAT. § 974.06 unless the defendant demonstrates a sufficient reason for failing to raise the claim earlier. *Escalona-Naranjo*, 185 Wis. 2d at 185. Whether an appeal is procedurally barred from review pursuant to *Escalona-Naranjo* is a question of law which we review de novo. *State v. Tillman*, 2005 WI App 71, ¶14, 281 Wis. 2d 157, 696 N.W.2d 574.

Examining Kaprelian's most recent postconviction motions, we conclude that they are procedurally barred from review. As noted by the State, Kaprelian does not provide a sufficient reason for not previously pursuing a motion for plea withdrawal and therefore his current motion is barred by *Escalona-Naranjo*.<sup>2</sup> Moreover, the issue of judicial bias is a claim that has been previously decided by this court. See *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) ("A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.") For these reasons, we are satisfied that the circuit court properly denied Kaprelian's motions.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*

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<sup>2</sup> Kaprelian argues that he should be allowed to pursue his plea withdrawal request because it is based upon newly discovered evidence. However, the evidence he alleges to be newly discovered is his own baseless assertions.