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DISTRICT I

January 30, 2014

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You are hereby notified that the Court has entered the following opinion and order:

2012AP2544	State of Wisconsin v. Jimmie T. Eskridge, Jr. (L.C. #2002CF785)
2012AP2545	State of Wisconsin v. Jimmie T. Eskridge, Jr. (L.C. #2002CF5312)

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

Jimmie T. Eskridge, Jr., *pro se*, appeals from an August 10, 2012 order denying his WIS. STAT. § 974.06 (2011-12)¹ motion and from an October 31, 2012 order denying his motion for reconsideration. By order dated April 3, 2013, we indicated that because the notice of appeal had been filed on November 19, 2012, the appeal was untimely as to the August 10 order. Further, we directed the parties to discuss, as the first issue in their appellate briefs, whether this court has jurisdiction to review the October 31 order. Based upon our review of the briefs and

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

record, we conclude at conference that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. The appeals are summarily dismissed for want of jurisdiction.

A motion for reconsideration ordinarily does not affect the time for appeal. *See Continental Cas. Co. v. Milwaukee Metro. Sewerage Dist.*, 175 Wis. 2d 527, 533-35, 499 N.W.2d 282 (Ct. App. 1993). Appeal cannot be taken from an order denying a motion for reconsideration that presents the same issues as those determined in the order sought to be reconsidered. *See Silverton Enters., Inc. v. General Cas. Co.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). When no appeal is taken from a judgment or order within prescribed time limits, error in that judgment or order cannot be reached by appeal of an order denying a motion to set it aside. *See Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972). A party is entitled to move for reconsideration, but “must present issues other than those determined by the order or judgment for which review is requested in order to appeal from the order entered on the motion for reconsideration.” *Id.* We thus compare the issues raised in the reconsideration motion with the issues disposed of in the order denying the WIS. STAT. § 974.06 motion. *See Harris v. Reivitz*, 142 Wis. 2d 82, 87, 417 N.W.2d 50 (Ct. App. 1987).

In Eskridge’s WIS. STAT. § 974.06 motion, he claimed that his trial attorneys, Ronald E. Langford and Bradley Bloch, were ineffective for various reasons, and that he should be allowed to withdraw his pleas and have a new trial and be given an evidentiary hearing. The circuit court denied the motion because Eskridge had a prior no-merit appeal and, thus, his § 974.06 motion was barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), and *State v. Tillman*, 2005 WI App 71, 281 Wis. 2d 157, 696 N.W.2d 574.

In the reconsideration motion, Eskridge reiterated his claim of ineffective assistance of counsel. Although in the reconsideration motion, Eskridge also argued why he believes WIS. STAT. § 974.06 actually permits his motion, the availability of said relief versus application of a procedural bar is necessarily a threshold question for a circuit court reviewing a § 974.06 motion in the first instance. Thus, there is no new issue presented by the reconsideration motion, and we have no jurisdiction over these appeals.²

IT IS ORDERED that the appeals are summarily dismissed.

Diane M. Fremgen
Clerk of Court of Appeals

² Eskridge attempts to argue that this court can exercise supervisory jurisdiction in this matter and “moves this court with a motion to use its authority of its supervisory writ to move forward” with this appeal. Even if Eskridge could make a motion within his brief—and, we stress, he cannot—and even if a supervisory writ were an appropriate approach in these matters—and, we stress, it is not—Eskridge has not made the requisite showing for obtaining a supervisory writ. *See, e.g., State ex rel. Dressler v. Circuit Court for Racine Cty.*, 163 Wis. 2d 622, 630, 472 N.W.2d 532 (Ct. App. 1991).