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**DISTRICT III**

March 25, 2014

To:

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

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2013AP1819

State of Wisconsin v. Ronald Wayne Taleronik  
(L. C. #2008CF178)

Before Hoover, P.J., Mangerson and Stark, JJ.

Ronald Taleronik, pro se, appeals an order denying his WIS. STAT. § 973.13 motion alleging he received an unlawful excessive sentence and seeking sentence correction.<sup>1</sup> Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition and we summarily affirm. *See* WIS. STAT. RULE 809.21.

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

On August 1, 2008, Taleronik was charged with theft by false representation in an amount greater than \$10,000, a Class G felony. The thefts were alleged to have occurred between February and April 2007. Pursuant to a plea agreement, Taleronik entered an *Alford*<sup>2</sup> plea to a reduced charge of false representation theft of property with value exceeding \$5,000 but not exceeding \$10,000, a Class H felony. He stipulated that the facts contained in the complaint provided a sufficient factual basis for the plea. Taleronik was sentenced to five years' incarceration, consisting of two years' initial confinement and three years' extended supervision, consecutive to any other sentence. An amended Information filed after sentencing indicated a singular offense date of March 9, 2007.

Taleronik filed a WIS. STAT. § 974.02 postconviction motion on August 14, 2009, asserting his sentence was unlawful because he stole exactly \$5,000 on March 9, 2007. Accordingly, Taleronik believed he could be convicted only of a Class I felony, which carries a maximum sentence of three years and six months. *See* WIS. STAT. § 939.50(3)(i). Taleronik voluntarily dismissed the motion on October 27, 2009.

Taleronik later filed two WIS. STAT. § 974.06 motions. In both motions he sought to have his sentence changed from consecutive to concurrent. The first motion, filed on November 3, 2010, was denied, and Taleronik voluntarily dismissed a subsequent appeal. Taleronik raised the same issue in his second motion, filed on September 26, 2011. That motion

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<sup>2</sup> *See North Carolina v. Alford*, 400 U.S. 25 (1970).

was denied as procedurally barred, and we affirmed. See *State v. Taleronik*, No. 2011AP2655, unpublished slip op. ¶8 (WI App Aug. 7, 2012).

All grounds for relief available to a person under WIS. STAT. § 974.06 must be raised in an original, supplemental, or amended motion. See WIS. STAT. § 974.06(4); *State v. Escalona-Naranjo*, 185 Wis.2d 168, 181, 517 N.W.2d 157 (1994). Further, any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived, may not be the basis for a subsequent motion, unless a sufficient reason exists for the failure to previously raise the issue. See WIS. STAT. § 974.06(4); *Escalona-Naranjo*, 185 Wis. 2d at 181-82.

Although Taleronik framed his current postconviction motion as one under WIS. STAT. § 973.13, his claims remain subject to WIS. STAT. § 974.06(4) and *Escalona-Naranjo*. Generally, a defendant cannot use § 973.13 to make an end-run around the procedural bar to successive postconviction motions. *State v. Mikulance*, 2006 WI App 69, ¶1, 291 Wis. 2d 494, 713 N.W.2d 160. While there is a limited exception for faulty repeater sentences, it is inapplicable because Taleronik was not convicted as a habitual criminal. See *id.*, ¶16.

We conclude Taleronik's excessive sentencing claim is procedurally barred. Taleronik raised the excessive sentence issue in his initial WIS. STAT. § 974.02 postconviction motion. However, he voluntarily withdrew that motion. Taleronik did not raise the excessive sentence issue in either of his subsequent WIS. STAT. § 974.06 motions, and he has not supplied any reason for his failure to do so. "Successive motions and appeals, which all could have been brought at the same time, run counter to the design and purpose of the legislation." *Escalona-Naranjo*, 185 Wis. 2d at 185.

In addition, Taleronik has failed to file a reply brief responding to the State's arguments. He has therefore effectively conceded his claim is procedurally barred. *See Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979).

Therefore,

IT IS ORDERED that the court's order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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