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DISTRICT II

April 16, 2014

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

2013AP1397 State of Wisconsin v. Jeffery L. Sprewell (L.C. # 1994CF220)

Before Neubauer, P.J., Reilly and Gundrum, JJ.

Jeffery L. Sprewell appeals pro se from an order denying his motion for postconviction relief. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. WIS. STAT. RULE 809.21 (2011-12).[1] We affirm the order of the circuit court.

In September 1994, Sprewell entered pleas of no contest to one count of burglary while armed as a party to a crime, one count of robbery by threat of a dangerous weapon as a party to a

[1] All references to the Wisconsin Statutes are to the 2011-12 version.

crime, and one count of possession of a firearm by a felon. The circuit court sentenced him to a total of forty-five years.

Represented by counsel, Sprewell filed a postconviction motion to withdraw his pleas, alleging that he entered them without a full understanding of the rights he was waiving or the consequences of the pleas. Following a hearing on the matter, the circuit court denied the motion, finding that Sprewell had, in fact, entered his pleas knowingly, voluntarily, and intelligently.

In August 1996, this court affirmed Sprewell's judgment of conviction and circuit court order denying relief. ***State v. Sprewell***, No. 1996AP644-CRNM, unpublished op. and order (WI App Aug. 7, 1996). In doing so, we concluded that there would be no merit to a challenge of the circuit court's decision denying Sprewell's motion to withdraw his pleas. We also concluded that postconviction counsel's decision not to raise a claim of ineffective assistance of trial counsel in conjunction with the motion to withdraw was a reasonable tactical decision.[2]

Since then, Sprewell has flooded the courts with numerous requests for relief. In his latest one, which the circuit court construed as a WIS. STAT. § 974.06 motion, Sprewell set forth various arguments as to why he should be allowed to withdraw his pleas. These included assertions that he did not understand the terms of his plea agreement[3] and that his trial counsel was ineffective for not speaking to him about entering into the pleas or going over the plea

[2] Postconviction counsel believed that, if called, trial counsel would have testified that he did explain many of the things to Sprewell that Sprewell claimed he did not know.

[3] Sprewell submits that he was under the influence of medication at the time he entered his pleas. The circuit court, of course, was aware of Sprewell's medication when it denied his original motion to withdraw his pleas.

waiver questionnaire with him. Sprewell also appeared to be claiming that his postconviction counsel was ineffective for failing to argue that his trial counsel was ineffective. The circuit court denied the motion. 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 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. Further, a defendant may not relitigate a matter previously litigated, "no matter how artfully the defendant may rephrase the issue." ***State v. Witkowski***, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991).

Applying these principles to the case at hand, we conclude that Sprewell's latest challenge to his convictions is procedurally barred. As noted by the State, the issue of whether Sprewell's pleas were knowingly, voluntarily, and intelligently entered was already litigated and cannot be relitigated now. ***Id.*** Likewise, we have already concluded that postconviction counsel's decision not to raise a claim of ineffective assistance of trial counsel in conjunction with the motion to withdraw was a reasonable tactical decision. To the extent that Sprewell's motion presents any new issues, he has not demonstrated a sufficient reason for failing to raise them earlier. *See* ***Escalona-Naranjo***, 185 Wis. 2d at 185. For these reasons, we are satisfied that the circuit court properly denied Sprewell's motion.

Upon the foregoing reasons,

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

Diane M. Fremgen
Clerk of Court of Appeals