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DISTRICT III

May 28, 2014

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

2013AP1629	State of Wisconsin v. Patrick J. Werner
2013AP1630	(L. C. ##1998CF1181, 1999CF16)

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

Patrick Werner, pro se, appeals an order denying multiple motions for postconviction relief. 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 809.21.¹

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

On June 23, 1999, Werner pleaded no contest to one count of second-degree sexual assault of a child in Brown County case No. 1998CF1181, and one count of child enticement-sexual contact in Brown County case No. 1999CF16. The plea constituted a global resolution of the two cases, as well as another Brown County case. Following the plea, the circuit court sentenced Werner to an indefinite term of ten years' imprisonment in case No. 1998CF1181, and placed Werner on probation for a ten-year term, with ten years' imprisonment imposed and stayed, in case No. 1999CF16.

Over the course of the following fourteen years, Werner filed multiple postconviction motions with the circuit court. The most recent of Werner's serial filings occurred in May 2013,² the denial of which has led to the present appeal. The circuit court properly recognized that all of the issues raised in the present appeal have already been litigated unsuccessfully by Werner. Successive postconviction efforts to litigate the same issues are barred. *See State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991).

Moreover, to the extent Werner's current motions may be construed to have raised new issues, WIS. STAT. § 974.06 does not create an unlimited right to file successive motions for relief. Claims that could have been raised on direct appeal or in a previous § 974.06 motion are barred from being raised in a subsequent § 974.06 motion absent a showing of a "sufficient reason" for the failure to allege or adequately raise the issue earlier. *See State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994).

² These motions included a May 7, 2013 motion for plea withdrawal; May 29, 2013 motions for postconviction relief and to withdraw guilty plea; and a June 18, 2013 motion for a new trial. Werner also moved for counsel to be appointed.

Here, Werner does not allege, much less establish, a sufficient reason why he could not have raised all of his issues at once in his many prior motions, and the circuit court correctly perceived none.³ His claims are therefore procedurally barred.

IT IS ORDERED that the order is summarily affirmed. WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals

³ Werner failed to file a reply brief on appeal. We therefore deem conceded the issue of whether Werner raised a sufficient reason why he could not have raised all of his issues at once in one of his many prior postconviction motions. *See Charolais Breeding Ranches, Ltd. v FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979).