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**DISTRICT II**

February 11, 2015

To:

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

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2014AP916-CR

State of Wisconsin v. Matthew W. Buss (L.C. #2001CF269)

Before Brown, C.J., Reilly and Gundrum, JJ.

Matthew W. Buss appeals pro se from an order denying the latest reincarnation of his many challenges to the restitution ordered after his 2002 arson conviction. He contends the amounts of the victims' losses never were proved. We affirm. His claim, repeatedly litigated without success, is barred by issue preclusion. Based on our review of the briefs and the record, we conclude that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>1</sup>

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

In 2001, Buss set a late-night fire to storage units in the basement of a fully occupied eight-unit apartment building. He pled guilty to arson. At sentencing, the State proffered a restitution figure of \$376,723.91. Neither Buss nor his attorney objected to or otherwise disputed it. He did not request a restitution hearing or challenge the amount in his 2006 pro se WIS. STAT. § 974.06 motion.

In 2007, Buss's motion for "withdrawal of court[-]ordered restitution" was denied. He moved for reconsideration and included a first-time claim that trial counsel ineffectively failed to challenge the amount of restitution. That motion likewise failed.

In December 2013, Buss began in earnest. Between then and March 31, 2014, he moved for relief from the restitution order, a restitution hearing, to stay restitution, and to revise restitution. The court denied Buss's pro se motions. Buss followed the denials with motions for a leave to respond, for reconsideration, and for an extension of time in which to file a brief. The court denied that series of motions, explaining that Buss's claims were procedurally barred, that there was "nothing pending in this case" to brief, and that the denial was "based on and as explained in the previous Orders of this court."

Not surprisingly, Buss moved for a rehearing. The court responded:

The defendant persists in filing what is in effect the same motion, over and over.

The latest version entitled "Motion for Rehearing" was filed on March 31, 2014.

It is denied.

Any and all further motions on the same subject are denied, and will be deemed denied, that is, not responded to by the court.

This appeal followed.

The gist of Buss’s appellate complaint is that the victims failed to prove the value of their losses. This mirrors the restitution claims he raised over seven years ago. The doctrine of issue preclusion forbids Buss to continually re-raise and relitigate the same issue.

Issue preclusion “is designed to limit the relitigation of issues that have been actually litigated in a previous action.” *Lindas v. Cady*, 183 Wis. 2d 547, 558, 515 N.W.2d 458 (1994). Successive postconviction motions, however repackaged, may not be used to resurrect a previously rejected issue. *See State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991).

Were we to accept for the sake of discussion that Buss offers a novel *argument*, we still must reject his claim. Legal issues incorporate legal arguments. *Cf. State v. Weber*, 164 Wis. 2d 788, 789, 476 N.W.2d 867 (1991) (discrete arguments bolster broader issue). Buss’s *issue* already has been decided.

Upon the foregoing reasons,

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

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