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**DISTRICT II**

November 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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2014AP2743-CR

State of Wisconsin v. Charles Young-Cooper (L.C. #1997CF24)

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

Charles Young-Cooper appeals pro se from an order denying his motion for sentence modification. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).<sup>1</sup> We agree that the motion is procedurally barred under WIS. STAT. § 974.06(4) and *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). We affirm the order.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

In 1997, Young-Cooper pled guilty to four counts of forcing a child under the age of thirteen to view sexually explicit conduct. He is serving a thirty-year sentence. Upon conviction, he moved for postconviction relief, followed by a direct appeal, two WIS. STAT. § 974.06 motions, two habeas corpus petitions, and, most recently, a “motion to modify sentence,” raising a statute-of-limitations challenge to the charges underlying his convictions. The circuit court denied this motion on grounds that the issue had been addressed many times over and that it was of “absolutely no merit whatsoever.” Young-Cooper appeals.

“All grounds for relief available to a person ... must be raised in his or her original, supplemental or amended motion” for postconviction relief. WIS. STAT. § 974.06(4). Absent a “sufficient reason” for failing to assert or to adequately raise it, “[a]ny ground finally adjudicated or not so raised ... may not be the basis for a subsequent motion.” *Id.*; see also *Escalona-Naranjo*, 185 Wis. 2d at 185.

The circuit court is correct. Young-Cooper has raised the statute-of-limitations issue at least three times. This court concluded the claim was both procedurally barred and failed on the merits. See *State v. Young-Cooper*, No. 2009AP2286, unpublished slip op. at 2-4 and n.2 (WI App May 19, 2010); *State ex rel. Young-Cooper v. Smith*, No. 2007AP110, unpublished op. and order at 2 (WI App Dec. 5, 2007); and *State v. Young-Cooper*, No. 2001AP611, unpublished slip op. ¶¶1, 3-4 (WI App Dec. 12, 2001). He implies that the issue was not adequately raised but offers no “sufficient reason” justifying the failure to do so.

Perhaps hoping to sidestep the procedural bar WIS. STAT. § 974.06 erects, Young-Cooper has styled his latest motion as a “motion to modify sentence,” and invokes the court’s inherent power to modify at any time a sentence that is illegal or impacted by a new factor. See, e.g.,

*State v. Stenklyft*, 2005 WI 71, ¶60, 281 Wis. 2d 484, 697 N.W.2d 769. After “spen[ding] an enormous amount of time reviewing this file,” the circuit court was satisfied that the issue had been repeatedly addressed and that Young-Cooper simply was “bringing it back just with a different title.” The court cautioned him that further filings could result in sanctions.

We agree with the circuit court. WISCONSIN STAT. § 974.06 “does not ... create an unlimited right to file successive motions for relief.” *State ex rel. Dismuke v. Kolb*, 149 Wis. 2d 270, 273, 441 N.W.2d 253 (Ct. App. 1989). “A matter once litigated may not be relitigated in a subsequent postconviction proceeding 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). And as Young-Cooper has not established either illegality or a new factor, we decline to exercise our inherent power to modify his sentence.

In line with the circuit court’s warning, the State asks this court to advise Young-Cooper that persistent litigation of this case may result in limitations pursuant to *State v. Casteel*, 2001 WI App 188, ¶25, 247 Wis. 2d 451, 634 N.W.2d 338, where we imposed on the appellant filing requirements for future appeals. The statute-of-limitations matter is settled. Young-Cooper is on notice that further appeals in this case may result in appropriate sanctions. *See id.*; *see also* WIS. STAT. RULES 809.25(3), 809.83(2). Therefore,

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

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