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DISTRICT IV

February 16, 2016

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

2015AP1503

State of Wisconsin v. Matthew Skamfer (L.C. # 2008CF37)

Before Lundsten, Higginbotham, and Blanchard, JJ.

Matthew Skamfer appeals a postconviction order. 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).¹ We affirm.

In 2008, Skamfer was convicted of battery by a prisoner. Skamfer was represented at trial by an attorney appointed by the circuit court. When the trial was over, the circuit court

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

ordered that Skamfer pay Dodge County \$2,316.46 in attorney's fees. Skamfer appealed his conviction, and appointed counsel filed a no-merit report. *See* WIS. STAT. RULE 809.32. Skamfer responded to the report. This court reviewed counsel's report, the record, and Skamfer's responses. We concluded that there were no arguably meritorious appellate issues and affirmed the judgment of conviction. *State v. Skamfer*, No. 2009AP2567-CRNM, unpublished slip op. and order (WI App Apr. 21, 2010).

On April 29, 2015, Dodge County filed a motion for contempt based on Skamfer's failure to pay the court-ordered attorney's fees. In response, Skamfer filed a motion arguing that his trial attorney had been ineffective for not arguing that Skamfer's mandatory release date had passed when the battery took place. Skamfer also complained that the State Public Defender had a conflict of interest throughout this matter.

The circuit court denied Skamfer's motion. The court ruled that Skamfer's conflict of interest argument had been rejected in a July 2013 order.² The court also rejected Skamfer's challenge to his conviction, holding that the basis for Skamfer's custody was not material and noting that "all that is required" is that Skamfer's custody rested upon a violation of law. *See State v. Skamfer*, 176 Wis. 2d 304, 308, 500 N.W.2d 369 (Ct. App. 1993). Skamfer appeals. We affirm.

In his brief, Skamfer continues to argue that his conviction must be reversed because he had been illegally confined after his mandatory release date. In our order affirming the judgment

² In his brief, Skamfer does not raise any substantive argument disputing the attorney's fee order. Regardless, the time for challenging the correctness of that order has long since passed.

of conviction, we noted that Skamfer had argued, in response to the no-merit report, “that he was not guilty of the offense because his mandatory release date had passed, and he was therefore not lawfully incarcerated at the time of the offense.” *Skamfer*, No. 2009AP2567-CRNM, unpublished slip op. and order, at 4. Because Skamfer “offer[ed] no facts to support that claim” and “the record contain[ed] none,” we rejected his argument. *Id.* We also rejected Skamfer’s contention that “his trial counsel, appellate counsel, and the prosecutor all had conflicts of interest.” *Id.*

In *State v. Tillman*, 2005 WI App 71, ¶27, 281 Wis. 2d 157, 696 N.W.2d 574, we held that, under *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), and WIS. STAT. § 974.06(4), a prior no-merit appeal may serve as “a procedural bar to a subsequent postconviction motion and ensuing appeal which raise the same issues or other issues that could have been previously raised.” “[W]hen a defendant’s postconviction issues have been addressed by the no[-]merit procedure ... the defendant may not thereafter again raise those issues.” *Tillman*, 281 Wis. 2d 157, ¶19.

Skamfer’s current appeal raises the same challenge to his conviction that was raised in his no-merit response, considered, and rejected by this court. “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).

Skamfer's mandatory release date and conflict of interest arguments have already been addressed by this court. We will not consider them again.³

Upon the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed.

Diane M. Fremgen
Clerk of Court of Appeals

³ In his appellate brief, Skamfer also challenges other convictions for battery by a prisoner, arguing that he was not a prisoner while committed to the Mendota Mental Health Institute. Other convictions are not within the scope of this appeal. Moreover, Skamfer's argument has been rejected on its merits. See *State v. Skamfer*, 176 Wis. 2d 304, 308, 500 N.W.2d 369 (Ct. App. 1993).