



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT III/IV**

May 26, 2016

To:

Hon. Kendall M. Kelley  
Circuit Court Judge  
Brown County Courthouse  
100 S. Jefferson St, PO Box 23600  
Green Bay, WI 54305-3600

John VanderLeest  
Clerk of Circuit Court  
Brown County Courthouse  
P.O. Box 23600  
Green Bay, WI 54305-3600

David L. Lasee  
District Attorney  
P.O. Box 23600  
Green Bay, WI 54305-3600

Aaron R. O'Neil  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

Christopher S. Streckenbach 427827  
Redgranite Corr. Inst.  
P.O. Box 925  
Redgranite, WI 54970-0925

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

---

2015AP1047-CR	State of Wisconsin v. Christopher S. Streckenbach (L.C. # 2008CF96)
2015AP1048-CR	State of Wisconsin v. Christopher S. Streckenbach (L.C. # 2008CF128)

Before Kloppenburg, P.J., Lundsten and Higginbotham, JJ.

Christopher Streckenbach appeals an order denying a motion challenging his sentence. He argues that he is entitled to a lesser sentence<sup>1</sup> due to inaccurate information in the presentence investigation report and trial counsel's ineffective failure to address the flaws. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for

---

<sup>1</sup> Streckenbach specifically seeks a remand to the circuit court with directions to change his sentence to time served followed by two years of extended supervision.

summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).<sup>2</sup> We conclude that Streckenbach's claims are barred by WIS. STAT. § 974.06 and *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). We affirm the order.

Pursuant to the no-contest pleas, Streckenbach was convicted of two counts of sexual assault and two counts of registered sex offender intentionally photographing a minor without consent, as a repeater. Streckenbach filed a postconviction motion to withdraw his no-contest pleas. The motion was denied. The judgments of conviction and order denying the postconviction motion were affirmed on appeal. *State v. Streckenbach*, Nos. 2010AP2344-CR, 2010AP2345-CR, unpublished slip op. (WI App Aug. 30, 2011).

Streckenbach filed the instant postconviction motion. The circuit court denied that motion on the grounds that Streckenbach had not shown that a new factor existed to warrant the exercise of the circuit court's discretion<sup>3</sup> to modify the sentence. Streckenbach appeals the denial.

The State argues that Streckenbach's claim is procedurally barred. We agree. When a defendant files a WIS. STAT. § 974.06 motion after having filed a previous postconviction motion or direct appeal, the claim is barred unless the circuit court ascertains that a sufficient reason

---

<sup>2</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

<sup>3</sup> Under WIS. STAT. § 973.19, a sentence modification motion can be brought within ninety days of the imposition of sentence: "if a defendant opts not to pursue a direct appeal of a conviction and seeks only to challenge his or her sentence, ... § 973.19(1)(a) provides the mechanism for asserting an erroneous exercise of discretion based on excessiveness, undue harshness, or unconscionability." *State v. Noll*, 2002 WI App 273, ¶10, 258 Wis. 2d 573, 653 N.W.2d 895. After that point, a defendant may move for discretionary review, but the circuit court exercises its inherent power to modify a sentence only if a defendant demonstrates the existence of a "new factor" justifying sentence modification. *Id.*, ¶11.

exists for the failure to raise the issue earlier. *Escalona-Naranjo*, 185 Wis. 2d at 181-82; § 974.06(4). Whether a sufficient reason is stated is a question of law subject to the de novo standard of review. *State v. Romero-Georgana*, 2014 WI 83, ¶30, 360 Wis. 2d 522, 849 N.W.2d 668.

Although Streckenbach captioned his motion as a sentence modification motion, that was not the nature of the motion. Instead, Streckenbach argued that the circuit court relied on inaccurate sentencing information and that his trial counsel deficiently failed to bring the inaccurate information to the court's attention. Streckenbach offers no reason for his failure to raise these issues in his previous postconviction motion and direct appeal. The grounds he cites either were raised at the sentencing hearing or could have been raised in the postconviction motion. Characterizing a motion as a motion for sentence modification rather than a motion under WIS. STAT § 974.06 does not defeat the procedural bar. Streckenbach has therefore not overcome the procedural bar to his claim for sentence modification.

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*