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DISTRICT II

March 15, 2017

To:

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

2016AP1036

State of Wisconsin v. Darren M. Wold (L.C. # 2009CF1349)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

Darren M. Wold appeals pro se from an order denying his 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. WIS. STAT. RULE 809.21 (2015-16).¹ We affirm the order of the circuit court.

¹ All references to the Wisconsin Statutes are to the 2015-16 version.

In 2011, Wold was convicted following a jury trial of first-degree intentional homicide as a party to a crime. The circuit court imposed a sentence of life in prison without the possibility of extended supervision.

In 2014, this court affirmed Wold's conviction. *State v. Wold*, No. 2013AP1618-CR, unpublished slip op. (WI App Dec. 23, 2014). In doing so, we rejected claims that the circuit court erred in (1) admitting other acts evidence, (2) denying a motion to sever, and (3) allowing the introduction of certain witness statements. We also rejected a claim that trial counsel was ineffective for not adequately objecting to the witness statements.

In 2016, Wold filed two motions for postconviction relief pursuant to WIS. STAT. § 974.06. In them, he complained that his trial counsel was ineffective for (1) failing to show that a co-defendant had given inconsistent statements to police; (2) failing to call certain witnesses; and (3) failing to consult with him about strategic choices. Wold also accused the circuit court of bias and claimed that it erred in denying his motion to change venue. The circuit court denied the motions without a hearing. This appeal follows.

On appeal, Wold contends that the circuit court erred in denying his motions for postconviction relief. He renews the claims made in them and seeks a new trial.

“We need finality in our litigation.” *State v. Escalona–Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). Therefore, any claim that could have been raised in a prior postconviction motion or direct appeal cannot form the basis for a subsequent motion under WIS. STAT. § 974.06 unless the defendant demonstrates a sufficient reason for failing to raise the claim earlier. *Escalona–Naranjo*, 185 Wis. 2d at 185. Whether a defendant's claim is

procedurally barred by *Escalona-Naranjo* presents a question of law that we review de novo. *State v. Tolefree*, 209 Wis. 2d 421, 424, 563 N.W.2d 175 (Ct. App. 1997).

Applying these principles, we conclude that Wold's claims are procedurally barred. As noted by the State, Wold's arguments are conclusory and undeveloped.² He does not provide a sufficient reason for failing to raise them on direct appeal. Although he suggests that his postconviction counsel was ineffective for not pursuing them, "[w]e will not assume ineffective assistance from a conclusory assertion." *State v. Romero-Georgana*, 2014 WI 83, ¶62, 360 Wis. 2d 522, 849 N.W.2d 668.³ Accordingly, we are satisfied that the circuit court properly denied Wold's motions.

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

² Wold does not support his arguments with citations to the record. He also fails to include a copy of the circuit court's decision in his appendix.

³ "A defendant who alleges in a [WIS. STAT.] § 974.06 motion that his postconviction counsel was ineffective for failing to bring certain viable claims must demonstrate that the claims he wishes to bring are clearly stronger than the claims postconviction counsel actually brought." *State v. Romero-Georgana*, 2014 WI 83, ¶4, 360 Wis. 2d 522, 849 N.W.2d 668. Wold did not do this in his motions.