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

DISTRICT II

April 12, 2017

To:

Hon. Kathryn W. Foster
Circuit Court Judge
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188

Kathleen A. Madden
Clerk of Circuit Court
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188

Susan Lee Opper
District Attorney
515 W. Moreland Blvd. Rm. G-72
Waukesha, WI 53188-2486

Scott E. Rosenow
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Ronald E. Schroeder 528682
Jackson Corr. Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

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

2015AP1729 State of Wisconsin v. Ronald E. Schroeder (L.C. #2007CF496)

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

Ronald E. Schroeder appeals pro se from an order denying his postconviction motion seeking to vacate Schroeder's amended judgment of conviction as void ab initio. 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 (2015-16).[1] We affirm.

In March 2008, a jury found Schroeder guilty of thirty-one counts. We affirmed his judgment on direct appeal. ***State v. Schroeder***, No. 2008AP2810-CR, unpublished slip op. (WI

[1] All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

App Feb. 17, 2010). Prior to Schroeder's scheduled release onto extended supervision (ES), department of corrections (DOC) Agent Jacob Leannais submitted a memorandum to the circuit court requesting the imposition of new ES conditions. At an October 15, 2013 hearing on Schroeder's ES conditions, Schroeder argued that Leannais' memo should be stricken and suggested the circuit court "lack[ed] jurisdiction" to modify his ES conditions. Schroeder argued that under WIS. STAT. § 802.05, the agent's memo should be stricken because it was unsigned, and because Leannais, a nonattorney, committed the unauthorized practice of law by filing it with the circuit court. The circuit court rejected Schroeder's arguments and ordered the proposed conditions. That same day, Schroeder submitted a handwritten "Motion for Reconsideration," renewing his argument that Leannais' memorandum "must be stricken" because it was unsigned and constituted the unauthorized practice of law such that the resulting court order must be "vacated." On October 23, 2013, the circuit court entered an amended judgment of conviction reflecting the new conditions of ES. The amended judgment stated in all capital letters that "this is a final order/judgment for purposes of appeal." In November 2013, the circuit court wrote a letter to Schroeder denying his request for a hearing to address the actions of Leannais because "this Court previously considered [Schroeder's] position on his request of the Court to set appropriate conditions of [supervision] at the time of that prior hearing."

Over one year later, on July 5, 2015, Schroeder filed a document entitled "Motion to Vacate Judgment," in which he moved the circuit court to vacate the amended judgment of conviction filed on October 23, 2013, and to reinstate the previous judgment. Schroeder again argued that the circuit court "lacked subject matter jurisdiction" to consider Leannais' unsigned memo and therefore, the amended judgment based on that memo was "void ab initio." The

circuit court denied the motion in a July 15, 2015 order, determining the motion "has already been litigated." Schroeder appeals.

We conclude that the circuit court properly denied Schroeder's July 2015 motion because it simply repackaged claims previously litigated in and decided by the circuit court. *See* ***State ex rel. Washington v. State***, 2012 WI App 74, ¶¶27-30, 343 Wis. 2d 434, 819 N.W.2d 305 (where defendant's prior motion and current motion for relief rested on the same issue and he failed to appeal the denial of his prior motion, he was procedurally barred from raising the same issue in a new motion). Schroeder made these same arguments concerning Leannais' unsigned memo at the October 2013 hearing and in subsequent writings, yet he never appealed the amended judgment of conviction.[2] "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 612 (Ct. App. 1991).

Schroeder contends that the circuit court erroneously determined that the issues in his July 2015 motion were previously litigated because, at the October 2013 hearing, the circuit court stated it was not going to address the fact that Leannais' memo was unsigned. Schroeder is wrong. The circuit court explained that the memo's validity was not the subject of the hearing, and then rejected Schroeder's argument that the unsigned memo was a defect depriving the court of jurisdiction. *See* ***State v. Crockett***, 2001 WI App 235, ¶12, 248 Wis. 2d 120, 635 N.W.2d 673 (Crockett's claim procedurally barred because he raised it in a previous postconviction motion

[2] In fact, in connection with a separate appeal, No. 2014AP1388, by orders dated November 18, 2014, and December 29, 2014, we expressly told Schroeder it was too late for him to appeal the circuit court's October 23, 2013 amended judgment or its November 13, 2013 order denying Schroeder's motion for a hearing on Leannais' conduct.

that was denied, although "the trial court failed to state its reasons for denying [the] claim"). Additionally, Schroeder continued his claims in a series of circuit court filings, all of which were denied. Having squarely presented his jurisdictional arguments to the circuit court at the October 2013 hearing and thereafter, Schroeder failed to timely appeal the purportedly void amended judgment connected to the allegedly defective memo.

We also reject Schroeder's contention that the circuit court somehow erred in denying his July 2015 motion to vacate because it "never elicited a response from the State." The circuit court denied Schroeder's motion after recognizing it had previously heard and decided his claims. Schroeder has not pointed to any authority requiring the circuit court to elicit the State's input prior to summarily denying a previously litigated motion.

Finally, we reject Schroeder's claim that the circuit court's amended judgment was void because it was based on an unsigned memo submitted by Leannais.[3] WISCONSIN STAT. § 802.05(1) requires that papers such as pleadings and motions must be signed by a party's attorney or, if unrepresented, by the party. According to Schroeder, the memo was defective whether signed or not because Leannais is neither a party nor an attorney and lacked the authority to file a § 802.05(1) pleading or motion in the court. However, WIS. STAT. § 302.113(7m)(a) authorizes the DOC, a nonparty, to "petition the sentencing court to modify any conditions of extended supervision set by the court." The DOC's petition was not a pleading

[3] We recently rejected this claim in ***State v. Schroeder***, No. 2015AP1720, unpublished slip op. (WI App Feb. 8, 2017). In that context, Schroeder maintained that a rule of supervision underlying his revocation "was void ab initio because the corresponding no contact order was based upon an unsigned memorandum from Schroeder's agent to the circuit court." ***Id.***, ¶12 n.2. We stated we were not convinced that "Schroeder's agent, who was neither an attorney nor a party, was required to sign the memorandum before submitting it to the court," and that even if he were so required, "such a technical defect would not render the no contact order/rule void." ***Id.***

or motion under § 802.05(1). The DOC is not a party to this case and § 302.113(7m)(a) authorized Leannais to file the subject memo.[4]

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

[4] To the extent we have not addressed any other argument raised by Schroeder on appeal, the argument is deemed rejected. *See* ***State v. Waste Mgmt. of Wis., Inc.***, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978) ("An appellate court is not a performing bear, required to dance to each and every tune played on appeal.").