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February 14, 2018

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

2017AP787

State of Wisconsin ex rel. Johnny Lacy, Jr. v. Gary Boughton
(L.C. # 2017CV1141)

Before Kessler, Brash and Dugan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE. 809.23(3).

Johnny Lacy, Jr., appeals an order of the circuit court denying his petition for a writ of *habeas corpus*. Lacy argues that his petition should not have been denied for failure to comply with WIS. STAT. § 782.04(4) (2015-16).¹ In the alternative, he contends that his inadequate

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

pleading should have been overlooked because he is proceeding *pro se*. We affirm. See WIS. STAT. RULE 809.21.

In 1998, Lacy was convicted of multiple crimes and was sentenced to 360 years of imprisonment. On February 9, 2017, Lacy filed a petition for writ of *habeas corpus*, arguing that the judgment should be vacated because he received ineffective assistance of trial and appellate counsel. The circuit court denied Lacy's petition.

Lacy argues that his petition should not have been denied for failure to comply with WIS. STAT. § 782.04(4). That statute provides that if a person is imprisoned by virtue of any judgment or order, a copy of the judgment or order must be attached to a petition for writ of *habeas corpus*. See *id.* Lacy did not attach a copy of the judgment sentencing him to prison, nor did he allege that he was unable to obtain a copy of the judgment. Therefore, the petition was properly denied for failure to comply with § 782.04(4).

Lacy contends that his inadequate pleading should have been overlooked because he is proceeding without the assistance of counsel. See *bin-Rilla v. Israel*, 113 Wis. 2d 514, 520-21, 335 N.W.2d 384 (1983). This argument is unavailing. The circuit court explicitly stated that it liberally construed Lacy's pleading, but concluded that, even under a liberal construction, the petition must be denied. Moreover, it is well established that “[t]he right to self-representation is [not] a license not to comply with relevant rules of procedural and substantive law.” *Waushara Cty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (citation omitted).

Even if Lacy had complied with WIS. STAT. § 782.04(4), however, his petition would have been denied. Lacy's claim that he received ineffective assistance of trial counsel is barred because he raised this argument during his direct appeal. “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 Lacy’s claim that he received ineffective assistance of appellate counsel was not properly before the circuit court; it must be raised before this court by petition pursuant to *State v. Knight*, 168 Wis. 2d 509, 512-13, 484 N.W.2d 540 (1992).

IT IS ORDERED that the order of the circuit court is summarily affirmed.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Acting Clerk of Court of Appeals