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DISTRICT IV

August 28, 2018

To:

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

2017AP1136

State of Wisconsin v. Mark J. Griffin, Jr. (L.C. # 2010CF552)

Before Lundsten, P.J., Blanchard and Kloppenburg, 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).

Mark Griffin, Jr., proceeding *pro se*, appeals a circuit court order denying his motion for postconviction relief. After reviewing 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 summarily affirm.

In 2010, Griffin pled guilty and was convicted of seven counts of forgery. Since then, he has filed eight postconviction motions. The circuit court either denied or took no action on each of Griffin’s postconviction motions. This appeal pertains to Griffin’s eighth postconviction motion, through which he sought to withdraw his guilty pleas. The court denied the motion on the basis that it was procedurally barred under *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994).

The State argues that all of the issues Griffin seeks to raise in his motion are procedurally barred, citing *Escalona-Naranjo*, 185 Wis. 2d at 185, for the principle that a defendant must raise all grounds regarding postconviction relief in the defendant’s original, supplemental, or amended motion unless the defendant demonstrates a sufficient reason for failing to do so. The “sufficient reason” to overcome the procedural bar must be alleged in the postconviction motion itself. *See State v. Allen*, 2010 WI 89, ¶91, 328 Wis. 2d 1, 786 N.W.2d 124. The State asserts that Griffin’s postconviction motion does not provide any reason, much less a sufficient one, for failing to raise his current claims in his earlier motions.

Griffin did not file a reply brief and, therefore, the State’s assertion that all of his claims are barred under *Escalona-Naranjo* is deemed admitted. *See Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994) (a proposition asserted by a respondent on appeal and not disputed by the appellant in the reply brief is taken as admitted). Accordingly, we affirm the

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

circuit court on the basis that all of the claims raised in Griffin's postconviction motion are procedurally barred.

IT IS ORDERED that the order is summarily affirmed under WIS. STAT. RULE 809.21(1).

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

Sheila T. Reiff
Clerk of Court of Appeals