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**DISTRICT II**

August 14, 2019

To:

Hon. Michael O. Bohren  
Circuit Court Judge  
Waukesha County Courthouse  
515 W. Moreland Blvd.  
Waukesha, WI 53188

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

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2018AP1977

State of Wisconsin ex rel. Dennis L. Hohol v. Michael Meisner  
(L.C. #2016CV1644)

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

**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).**

Dennis L. Hohol appeals an order dismissing his habeas corpus writ petition. Upon reviewing the briefs and the record, we conclude at conference this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).<sup>1</sup> Accordingly, we affirm the order of the circuit court.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

In 2002, Hohol was convicted of three counts of second-degree sexual assault of a child and one count of child enticement. The conviction stemmed from two consolidated cases.

In 2016, Hohol petitioned for a writ of habeas corpus. He argued that (1) his trial counsel provided ineffective assistance regarding Hohol's decision to have a bench trial instead of a jury trial, (2) the circuit court erred by admitting other-acts evidence at trial, and (3) the circuit court erroneously joined Hohol's two criminal cases for trial. The circuit court dismissed the petition on its merits.

Whether habeas relief is available to the party seeking it presents a question of law this court reviews de novo. *State v. Pozo*, 2002 WI App 279, ¶6, 258 Wis. 2d 796, 654 N.W.2d 12. Such relief is available only where the petitioner demonstrates (1) a restraint of his or her liberty (2) imposed contrary to constitutional protections or by a body lacking jurisdiction and (3) that he or she has or had no other adequate remedy available at law. *Id.*, ¶8.

Hohol had a direct appeal. A direct appeal is “an otherwise adequate remedy.” *State ex rel. Haas v. McReynolds*, 2002 WI 43, ¶15, 252 Wis. 2d 133, 643 N.W.2d 771. A habeas petition will not be granted where the petitioner asserts a claim he or she could have raised during a prior appeal, but failed to do so, and offers no valid reason to excuse the failure, or asserts a claim that was previously litigated in a prior appeal. *Pozo*, 258 Wis. 2d 796, ¶9.

Hohol is restrained of his liberty. He nonetheless is not entitled to habeas relief because his other-acts and misjoinder claims are statutory, not constitutional, and all three claims either were or could have been raised on his direct appeal.

Hohol offers no reason for his failure to raise his ineffective assistance claim on direct appeal; his other-acts claim is not constitutional in dimension and was already litigated in his direct appeal; and his misjoinder claim lacks both a constitutional dimension and could have been raised on his direct appeal. He does not explain his failure to do so.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*