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DISTRICT II

October 14, 2020

To:

Hon. Michael J. Piontek
Circuit Court Judge
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You are hereby notified that the Court has entered the following opinion and order:

2019AP1171

James R. Turner v. Reed Richardson (L.C. #2019IP6)

Before Reilly, P.J., Gundrum and Davis, 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).

James Turner, pro se, appeals the circuit court's denial of his WIS. STAT. § 782.01 (2017-18)¹ habeas corpus petition without a hearing. 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. We affirm.

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

In 1988, Turner was convicted of various felony offenses, including multiple sexual assault charges. Turner appealed his conviction in 1990, and his appellate counsel filed a no-merit report, which this court accepted, concluding that further proceedings would be without arguable merit. Turner subsequently filed four WIS. STAT. § 974.06 postconviction motions, and in 2006, he appealed the circuit court’s denial of his fourth such motion; however, he subsequently dismissed that appeal. In 2008, Turner filed a petition for habeas corpus, which the circuit court denied as being procedurally barred. We affirmed that ruling on appeal, agreeing that Turner’s claims were procedurally barred and noting that “Turner had adequate remedies at law through his numerous § 974.06 motions.” *State v. Turner*, Nos. 2008AP2324 and 2008AP2325, unpublished slip op. at 3 (WI App July 20, 2010).

In June 2019, Turner filed his present petition for writ of habeas corpus, contending that the circuit court erred in denying one of his WIS. STAT. § 974.06 motions back in 1991 because the court failed to reduce its oral ruling to a written order. The circuit court denied his petition as procedurally barred, and Turner now appeals.

Whether a defendant’s claim is procedurally barred is a question of law we review independently. *See State v. Tolefree*, 209 Wis. 2d 421, 424, 563 N.W.2d 175 (Ct. App. 1997).

Before we even get to this question, however, we first note that while Turner claims that various constitutional rights and statutes were violated by the circuit court’s alleged failure to reduce its oral ruling to a written order in 1991, he fails to sufficiently develop any arguments in support, and we do not address undeveloped arguments. *See ABKA Ltd. P’ship v. Board of Rev.*, 231 Wis. 2d 328, 349 n.9, 603 N.W.2d 217 (1999); *see also State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct.App.1992) (“We cannot [properly] serve as both advocate and judge.”).

More significantly, on the question of a procedural bar to Turner’s current issue—the circuit court’s alleged failure in 1991 to reduce its oral ruling to writing—we note that Turner

has filed multiple WIS. STAT. § 974.06 motions since 1991, yet he failed to raise this issue in any of those motions, and he has not provided us with any reason, let alone a sufficient one, for why he could not have done so. A petition for a writ of habeas corpus is subject to the limitations of § 974.06, *see* WIS. STAT. § 782.01(1), and absent a sufficient reason, a defendant is procedurally barred from raising claims for relief in a subsequent § 974.06 postconviction motion that were or could have been raised in a previous postconviction motion, *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181-82, 517 N.W.2d 157 (1994). Thus, this claim of Turner's is procedurally barred.

On appeal, Turner also raises issues of double jeopardy, multiplicity, and ineffective assistance of trial counsel. These issues fall as he did not raise them in his habeas petition to the circuit court, and “[i]ssues that are not preserved at the circuit court ... generally will not be considered on appeal.” *See State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727. Even if he had raised these issues before the circuit court, however, they would fall because he, again, fails to provide any reason, much less a sufficient one, for why he did not raise them on direct appeal or in any of his prior WIS. STAT. § 974.06 motions. *See State ex rel. Le Febre v. Israel*, 109 Wis. 2d 337, 342, 325 N.W.2d 899 (1982); *Escalona-Naranjo*, 185 Wis. 2d at 181-82.

Therefore,

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

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

Sheila T. Reiff
Clerk of Court of Appeals