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**DISTRICT II**

October 21, 2020

To:

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

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2019AP1405

State of Wisconsin v. Andre W. Warfield (L.C. #2005CF191)

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).**

Andre W. Warfield appeals pro se from an order denying his postconviction motion. 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 (2017-18).<sup>1</sup> We affirm the order of the circuit court.

In 2005, Warfield was convicted following a jury trial of kidnapping, armed burglary, conspiracy to commit armed robbery with use of force, physical abuse of a child, and seven counts of taking hostages. The circuit court imposed an aggregate sentence of forty-seven years of initial confinement and thirty-four years of extended supervision.

In 2007, this court affirmed Warfield's convictions. *State v. Warfield*, No. 2006AP660-CR, unpublished slip op. (WI App Jan. 31, 2007). In doing so, we rejected two issues, both styled as sufficiency of the evidence challenges.

Since his direct appeal, Warfield has unsuccessfully pursued postconviction relief several times, raising a number of different issues.<sup>2</sup> He filed pro se WIS. STAT. § 974.06 motions in 2011, 2015, and 2016. Each time, the circuit court denied his motion, and Warfield appealed. We dismissed Warfield's first appeal for failure to comply with our rules and orders. We affirmed the orders of the circuit court in Warfield's other appeals. *State v. Warfield*, No. 2015AP1163, unpublished op. and order (WI App Mar. 9, 2016); *State v. Warfield*, No. 2017AP2038, unpublished op. and order (WI App Sept. 12, 2018).

In 2019, Warfield filed yet another pro se WIS. STAT. § 974.06 motion, which is the subject of this appeal. In it, he renewed claims of ineffective assistance of counsel and newly discovered

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

<sup>2</sup> The issues included claims that (1) the circuit court lost subject matter jurisdiction in his case, (2) his jury pool did not represent a fair cross-section of the community, (3) his counsel was ineffective for not moving to suppress his statement to police and failing to investigate statements of his codefendants, and (4) statements of his codefendants constituted newly discovered evidence.

evidence based on statements of his codefendants. He also advanced arguments concerning his right to confront witnesses at trial and an allegation that the prosecutor and trial judge engaged in misconduct. The circuit court denied the motion. This appeal follows.

“We need finality in our litigation.” *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). Therefore, any claim that could have been raised in a prior postconviction motion or direct appeal cannot form the basis for a subsequent motion under WIS. STAT. § 974.06 unless the defendant demonstrates a sufficient reason for failing to raise the claim earlier. *Escalona-Naranjo*, 185 Wis. 2d at 185. Furthermore, a defendant may not relitigate a matter previously litigated, “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).

Applying these principles to the case at hand, we conclude that Warfield’s latest postconviction motion is procedurally barred. Claims of ineffective assistance of counsel and newly discovered evidenced based on statements of Warfield’s codefendants were already litigated and cannot be relitigated now. *Id.* As for the other issues raised in the postconviction motion, Warfield has not demonstrated a sufficient reason for failing to raise them earlier. *See Escalona-Naranjo*, 185 Wis. 2d at 185. Accordingly, we are satisfied that the circuit court properly denied his motion.

As a final matter, the State asks us to warn Warfield that persistent litigation of this case may result in limitations pursuant to *State v. Casteel*, 2001 WI App 188, ¶25, 247 Wis. 2d 451, 634 N.W.2d 338, where we imposed on the appellant filing requirements for future appeals. The State’s request is appropriate. Warfield is on notice that further appeals in this case may result in

sanctions, including restricting future access to the courts in the manner set forth in *Casteel*, and imposition of penalties or costs. *See id.*; *see also* WIS. STAT. RULES 809.25(3), 809.83(2).<sup>3</sup>

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*

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<sup>3</sup> To the extent we have not addressed an argument raised by Warfield 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).