



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I

November 24, 2020

To:

Hon. Joseph R. Wall
Circuit Court Judge
Safety Building, Rm. 313
821 W. State St.
Milwaukee, WI 53233

Elizabeth A. Longo
Assistant District Attorney
District Attorney's Office
821 W. State. St. - Ste. 405
Milwaukee, WI 53233

John Barrett
Clerk of Circuit Court
Room 114
821 W. State Street
Milwaukee, WI 53233

Eric Michael Muellenbach
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707

Matthew Charles Stechauner 378235
Oshkosh Correctional Inst.
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2020AP849-CR

State of Wisconsin v. Matthew Charles Stechauner
(L.C. # 2004CF6461)

Before Dugan, Graham and White, 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).

Matthew Charles Stechauner, *pro se*, appeals the circuit court's order denying his postconviction motion. Stechauner argues that: (1) the Department of Corrections (DOC) should reduce the percentage of his prison wages being taken for restitution; (2) the DOC should be barred from collecting restitution payments because it did not begin to collect them until ten years after he was sentenced; (3) he is not obligated to pay restitution because he did not have a restitution

hearing; and (4) the circuit court *properly* amended his judgment of conviction to remove certain language. We conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

Stechauner was convicted in 2006 of second-degree reckless homicide and armed robbery with use of force, both as a party to a crime. Since his conviction, he has sought postconviction relief on multiple occasions. Stechauner filed the current motion in February 2020, which the circuit court granted in part and denied in part. This is his fourth challenge to DOC collection practices.

Stechauner first argues that the DOC is improperly deducting more than 25% of his prison wages to pay restitution. We reject this argument. The circuit court, sitting in its role as the sentencing court, lacks competency to address a motion to prohibit DOC from deducting funds from an inmate’s prison account to pay restitution. *See State v. Williams*, 2018 WI App 20, ¶4, 380 Wis. 2d 440, 909 N.W.2d 177. In *Williams*, we held that an inmate’s recourse is to the inmate complaint review system because “[o]nce an inmate is sentenced to prison, he or she is under the control of the executive branch and must address his or her objections to the internal operating procedures of the DOC through the [Inmate Complaint Review System].” *Id.* We explained that if the prisoner’s grievance is adversely resolved at the administrative level, the inmate may then bring a writ of certiorari to the circuit court. *Id.* Because Stechauner brought his action directly to the circuit court, sitting in its role as sentencing court, the circuit court properly concluded that it did not have competency to address his argument.

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

Stechauner also contends that the DOC should be barred from collecting restitution payments because it did not begin to collect them until ten years after he was sentenced. This argument, too, is unavailing under *Williams*. Stechauner must raise his complaint about restitution collection through the prison administrative process. The circuit court properly concluded that it lacked competency to consider the issue. *See id.*

Stechauner next argues that he is not obligated to pay restitution because the circuit court should have held a restitution hearing before setting the amount of restitution he was obligated to pay.² An issue that could have been raised in prior litigation cannot be the basis for a subsequent postconviction motion under WIS. STAT. § 974.06 unless the defendant shows a sufficient reason for failing to previously raise the issue. *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). Stechauner has provided no reason, much less a sufficient reason, for failing to previously raise this argument. Therefore, it is procedurally barred under *Escalona-Naranjo*.

Finally, Stechauner argues that the circuit court *properly* amended his judgment of conviction to remove language the circuit court had added on June 22, 2017, requiring that his financial obligations be paid from 25% of his prison wages. Stechauner asked the circuit court to remove the language, which was not included in his original judgment of conviction, and the circuit court did as Stechauner requested. Stechauner prevailed in the circuit court on this issue and the State did not file any cross-appeal, so there is no reason to address the matter further on appeal.

² We note that Stechauner did not object when the circuit court ordered that he pay restitution at the sentencing hearing.

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