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DISTRICT II

October 6, 2021

To:

Hon. Jeffrey S. Froehlich
Circuit Court Judge
Electronic Notice

Jennifer L. Vandermeuse
Electronic Notice

Connie Daun
Clerk of Circuit Court
Calumet County
Electronic Notice

Keith W. Hacek, #608117
John C. Burke Correctional Inst.
P.O. Box 900
Waupun, WI 53963-0900

Nathan F. Haberman
Electronic Notice

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

2020AP1625

State of Wisconsin v. Keith W. Hacek (L.C. #2013CF10)

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

Keith W. Hacek 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 (2019-20).¹ We affirm the order of the circuit court.

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

In 2013, Hacek was convicted of two counts of possession of child pornography. The circuit court imposed an aggregate sentence of ten years of initial confinement and ten years of extended supervision. It later amended the judgment of conviction to also require Hacek to comply with sex offender reporting requirements.

In 2015, this court affirmed Hacek's convictions. *State v. Hacek*, Nos. 2014AP1452-CRNM and 2015AP1273-CRNM, unpublished op. and order (WI App Oct. 21, 2015). In doing so, we concluded that there were no issues of arguable merit. Accordingly, we accepted counsel's no-merit reports and relieved him of further representation.

In February 2020, Hacek filed a pro se WIS. STAT. § 974.06 motion, complaining that the circuit court violated the parties' plea agreement by ordering that he comply with sex offender reporting requirements. The circuit court denied the motion. Hacek did not appeal.

Not quite two months later, Hacek filed another pro se WIS. STAT. § 974.06 motion. This time, he alleged that the circuit court relied on inaccurate information at sentencing, did not explain its sentence in writing, and never informed him that he would have to comply with sex offender reporting requirements. Again, 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. This procedural bar applies even if

the direct appeal was a no-merit appeal. *See State v. Tillman*, 2005 WI App 71, ¶19, 281 Wis. 2d 157, 696 N.W.2d 574.

Applying these principles to the case at hand, we conclude that Hacek’s latest postconviction motion is procedurally barred. He has not demonstrated a sufficient reason for failing to raise the claims in it earlier—either in his no-merit appeal or original WIS. STAT. § 974.06 motion. *See Escalona-Naranjo*, 185 Wis. 2d at 185. Accordingly, we are satisfied that the circuit court properly denied Hacek’s motion.²

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.

Sheila T. Reiff
Clerk of Court of Appeals

² To the extent we have not addressed an argument raised by Hacek 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).

