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DISTRICT II

April 6, 2022

To:

Hon. Scott C. Woldt
Circuit Court Judge
Electronic Notice

Tara Berry
Clerk of Circuit Court
Winnebago County Courthouse
Electronic Notice

Christian A. Gossett
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Sara Lynn Shaeffer
Electronic Notice

Michael V. Petty, #89676
Fox Lake Correctional Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2021AP1003	State of Wisconsin v. Michael V. Petty (L.C. #2016CF338)
2021AP1004	State of Wisconsin v. Michael V. Petty (L.C. #2016CF700)

Before Gundrum, P.J., Grogan and Kornblum, 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).

In these consolidated cases, Michael V. Petty appeals pro se from an order denying his postconviction motion. He contends that he is entitled to plea withdrawal. Based upon our review of the briefs and records, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2019-20).¹ We affirm.

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

In 2017, Petty was convicted following no contest pleas to two counts of burglary of a building or dwelling. The circuit court imposed an aggregate sentence of seven years and six months of initial confinement and five years of extended supervision.

In 2020, this court affirmed Petty's convictions. *State v. Petty*, Nos. 2019AP1744-CRNM and 2020AP136-CRNM, unpublished op. and order (WI App Aug. 26, 2020). After reviewing the records, counsel's no-merit reports, and Petty's responses, we concluded that there were no issues with arguable merit for appeal.

Petty subsequently filed a postconviction motion pursuant to WIS. STAT. § 974.06. In it, he argued that he was entitled to plea withdrawal because his pleas were not validly entered. In particular, Petty complained that he did not understand the proceedings due to an insufficient colloquy and that his pleas lacked a factual basis. The circuit court denied the motion without a hearing. 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, a defendant may not again raise issues that were addressed in a no-merit decision. *State v. Tillman*, 2005 WI App 71, ¶19, 281 Wis. 2d 157, 696 N.W.2d 574. *See also State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) (“A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.”).

Applying these principles to the case at hand, we conclude that Petty's postconviction motion is procedurally barred. As noted by the State, the issues raised in Petty's postconviction motion were addressed in this court's no-merit decision. There, we considered the validity of Petty's pleas and rejected his complaints that he did not understand the proceedings due to an

insufficient colloquy² and that his pleas lacked a factual basis. *See Petty*, Nos. 2019AP1744-CRNM and 2020AP136-CRNM, unpublished op. and order at 2-4. Petty cannot again raise and relitigate these issues. *Tillman*, 281 Wis.2d 157, ¶19; *Witkowski*, 163 Wis.2d at 990. Accordingly, we are satisfied that the circuit court properly denied his motion.³

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 Petty had claimed that he did not understand the nature of the offenses, the penalties he was facing, or the constitutional rights he was waiving.

³ To the extent we have not addressed an argument raised by Petty 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).