



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

February 28, 2023

To:

Hon. Stephanie Rothstein
Circuit Court Judge
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

John D. Flynn
Electronic Notice

Michael C. Sanders
Electronic Notice

Maries D. Addison 494284
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

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

2020AP677	State of Wisconsin v. Maries D. Addison (L.C. # 2011CF1079)
2020AP678	State of Wisconsin v. Maries D. Addison (L.C. # 2011CF1664)
2020AP679	State of Wisconsin v. Maries D. Addison (L.C. # 2011CF2881)

Before Brash, C.J., Dugan 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).

Maries D. Addison, *pro se*, appeals from orders of the circuit court that denied his WIS. STAT. § 974.06 (2021-22)¹ motion for postconviction relief. 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. The orders are summarily affirmed.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

After a thirteen-day jury trial in August 2012, Addison was convicted of seventeen felonies in three cases, including sexual assault, human trafficking, and child exploitation, and acquitted on five counts. The trial court imposed sentences totaling ninety-five years of initial confinement and twenty-eight years of extended supervision.²

After a postconviction motion was denied, Addison appealed, raising three issues. First, he claimed the charges should have been dismissed due to a violation of his speedy trial rights. Second, he claimed that the trial court erred when it denied his request for new counsel, required him to proceed *pro se*, and failed to make a sufficient finding that he was competent to represent himself. Finally, he claimed that the trial court violated his right to religious freedom when it directed that his Bible be removed from the courtroom. *See State v. Addison*, Nos. 2018AP55-57-CR, unpublished slip op. ¶2 (WI App Mar. 16, 2019). We affirmed. *See id.*

In March 2020, Addison filed a postconviction motion under WIS. STAT. § 974.06. He claimed that trial counsel was ineffective for failing to properly pursue his right to a speedy trial and that postconviction counsel was ineffective for not raising trial counsel's failure to pursue that issue. Addison further claimed that trial counsel was ineffective for not properly preparing for trial, thereby forcing Addison to represent himself, and that postconviction counsel was

² The Honorable Ellen R. Brostrom presided at trial and imposed Addison's sentences, and we will refer to her as the trial court. In the first case, Addison was sentenced on seven counts, to be served concurrently; the controlling sentence in that case is forty years of initial confinement and ten years of extended supervision. The second case had eight counts; the sentences were set concurrent to each other but consecutive to the first case, and the controlling sentence was twenty-five years of initial confinement and eight years of extended supervision. In the third case, Addison was given fifteen years of initial confinement and five years of extended supervision on each of two counts, consecutive to each other and to any other sentences.

ineffective for failing to argue that Addison was incompetent to do so.³ Finally, Addison claimed that postconviction counsel had not properly argued that the trial court violated his due process rights when she was “influenced by the Chief Judge, and her own [C]atholic faith.”

The circuit court⁴ denied the motion, finding the speedy trial and competency issues had already been litigated and were therefore procedurally barred. The circuit court did not address the claims against the trial court, except to the extent that it denied Addison’s “more generalized complaints about the performance of trial and postconviction counsel” as conclusory and undeveloped. Addison appeals.

Addison’s speedy trial and competency to represent himself issues have already been litigated, *see Addison*, Nos. 2018AP55-57-CR, ¶¶25-56, so the circuit court properly deemed them procedurally barred. A WIS. STAT. § 974.06 motion “must not be used to raise issues disposed of by a previous appeal.” *See State v. Walberg*, 109 Wis. 2d 96, 103, 325 N.W.2d 687 (1982) (citation omitted). “A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.” *See State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991).

³ Addison also argued that postconviction counsel was ineffective in his role as appellate counsel for failing to adequately brief either claim against trial counsel on appeal. We note, however, that claims of ineffective assistance of trial counsel must first be preserved for appeal by postconviction motion, which is the responsibility of postconviction counsel, *see State ex rel. Rothering v. McCaughtry*, 205 Wis. 2d 675, 677-78, 556 N.W.2d 136 (Ct. App. 1996), and claims of ineffective assistance of appellate counsel cannot be brought in the circuit court, *see State ex rel. Warren v. Meisner*, 2020 WI 55, ¶¶5, 32-36, 392 Wis. 2d 1, 944 N.W.2d 588

⁴ The Honorable Stephanie Rothstein denied the postconviction motion and will be referred to as the circuit court.

It makes no difference that Addison currently raises the speedy trial and competency issues by way of ineffective assistance claims. “To prevail on an ineffective assistance claim, a defendant must prove both that counsel performed deficiently and that the deficient performance prejudiced the defense.” *See State v. Prescott*, 2012 WI App 136, ¶11, 345 Wis. 2d 313, 825 N.W.2d 515. We have previously determined that the delay in the trial did not violate Addison’s constitutional right to a speedy trial and that the trial court’s colloquy with Addison properly established that he made a valid waiver of counsel so that he could represent himself and that he was competent to do so. Accordingly, even if there were deficient performance by either attorney, Addison has suffered no prejudice, which defeats the ineffective assistance claims.

Addison’s remaining claim is that the trial court violated his due process rights because the judge “was influenced by the Chief Judge, and her own [C]atholic faith.” The trial in this case ran from August 13 to August 28, 2012. On August 22, the parties and the trial court had a discussion regarding Addison’s use of the preliminary hearing transcript during cross-examination of victim J.G., which Addison wanted to use to show J.G. was prostituting herself before she met him. The trial court explained that asking J.G. whether she had prostituted herself before meeting Addison was barred by the rape shield law, WIS. STAT. § 972.11. Later, on August 24, Addison was cross-examining Officer Tara Ferguson, who had interviewed another victim, D.B. He asked the officer whether D.B. had stated “that she learned about this back page through her sister and she used to prostitute with her sister prior to meeting Mr. Addison?” The trial court interrupted:

THE COURT: Mr. Addison, we’ve already had an objection, [WIS. STAT. §] 972.11. That’s a question that’s not –

MR. ADDISON: Before the D.A.?

THE COURT: The chief judge has instructed me, and it is my obligation to keep this on track in terms of questions that can actually be asked under the law. You are held to the same standards as if you had a lawyer even though you are pro se. That's my function at this point.

Addison then resumed his examination of Officer Ferguson.

On appeal, Addison contends that the trial court “allowed outside influence to determine questions the defendant could ask.” However, the trial court’s determination that Addison’s question was barred is an accurate reflection of the law, and the trial court had previously ruled that such questions were irrelevant and inadmissible under the rape shield law. We are, therefore, not convinced that the trial court was improperly influenced by the Chief Judge.

D.B. gave extensive testimony at trial. During direct examination on August 17, 2012, she described some of the ways in which Addison physically abused her, including punching her “all over” her body. The State asked when that occurred, and D.B. answered “right before New Years,” which she knew because Addison took another woman “to church with him for New Years.” The State asked D.B. if Addison had ever taken her to church, and she said yes. The State asked D.B. for some details about the church, including whether she knew the pastor. She answered, “Yes, because I stayed with the pastor.” D.B. explained how it came to pass that she stayed briefly with the pastor after Addison told the pastor “he ain’t want nothing else to do with me.” The State asked D.B., “Did anything sexual happen with you and this pastor?” D.B. answered, “No.”

During Addison’s cross-examination of D.B., he asked if she “ever had sex with the DA?” The trial court interjected, “Oh, Mr. Addison.” He responded, “That’s how I feel when [the State] asked about the man of God that serious question. That’s a legitimate question.”

Addison then asked D.B. again, “Have you and the DA ever been intimate?” The trial court refused to allow Addison to ask the question, and Addison protested.

DEFENDANT ADDISON: How come that can come up in

—
THE COURT: Mr. Addison, the sad reality is clergy have sex with young people.

DEFENDANT ADDISON: And DA’s don’t?

THE COURT: I’m Catholic and I can tell you the clergy and the Catholic church have had some problems with that, but your comments and questions are completely out of line. I will ask you to move on please.

On appeal, Addison complains that the trial court “did allow her ‘[C]atholic’ faith to influence” what questions Addison was allowed to ask.

We disagree. The trial court’s commentary was clearly in response to Addison’s indignation at the suggestion that a religious leader might have had a sexual relationship with a young woman. Ultimately, however, the trial court prohibited Addison from asking a question that was obviously improper and was not designed to elicit relevant evidence. The trial court’s editorial comment does not affect its obviously correct decision to disallow Addison’s question.

We, therefore, conclude that the circuit court properly denied Addison’s postconviction challenges.

IT IS ORDERED that the orders are 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