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**DISTRICT I**

April 25, 2023

To:

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Circuit Court Judge  
Electronic Notice

Anna Hodges  
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John D. Flynn  
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Jarmel Dontra Chisem 325261  
Stanley Correctional Inst.  
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Stanley, WI 54768

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

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2021AP899                      State of Wisconsin v. Jarmel Dontra Chisem (L.C. # 2014CF3715)

Before Brash, C.J., Donald, P.J., and White, J.

**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).**

Jarmel Dontra Chisem, *pro se*, appeals the order denying his WIS. STAT. § 974.06 (2021-22)<sup>1</sup> 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. We summarily affirm.

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

This is not Chisem's first challenge to his 2015 convictions. On direct appeal, Chisem challenged the judgment, entered on a jury's verdicts, convicting him of first-degree reckless homicide as a party to a crime while using a dangerous weapon, as a repeater, and first-degree recklessly endangering safety as a party to a crime while using a dangerous weapon, as a repeater. Chisem also appealed the trial court's order denying his motion for postconviction relief. See *State v. Chisem*, No. 2017AP1114-CR, unpublished slip op. (WI App Mar. 5, 2019) (*Chisem I*). Chisem argued that the trial court erred when it denied his motion for severance from his co-defendant, Howard Davis, and that there was a discovery violation by the State. *Id.*, ¶¶2-3. We affirmed. *Id.*, ¶¶5-6. The Wisconsin Supreme Court denied review.

The background information previously provided in *Chisem I* will not be restated. *Id.*, ¶¶7-20. Instead, we provide only the information that we deem relevant to the matter before us.

In the underlying WIS. STAT. § 974.06 motion, Chisem raised claims of ineffective assistance of trial and postconviction counsel. The circuit court denied Chisem's motion without a hearing. On appeal, Chisem abandons his claims of ineffective assistance. See *Cosio v. Medical Coll. of Wis., Inc.*, 139 Wis. 2d 241, 242-43, 407 N.W.2d 302 (Ct. App. 1987) (deeming issues not briefed on appeal abandoned). Instead, he argues that he is entitled to a new trial because there was insufficient evidence to convict him. According to Chisem, the jury did not correctly apply the jury instructions when it found him guilty of first-degree reckless homicide and first-degree recklessly endangering safety but not guilty of possessing a firearm as a felon.

The postconviction procedures of WIS. STAT. § 974.06 allow a convicted offender to attack a conviction after the time for a direct appeal has expired. See *State v. Escalona-Naranjo*,

185 Wis. 2d 168, 176, 517 N.W.2d 157 (1994). The opportunity to bring postconviction motions, however, is not limitless. Section 974.06(4) requires a prisoner to raise all constitutional and jurisdictional grounds for postconviction relief in his or her original, supplemental, or amended motion. *See id.*; *see also Escalona-Naranjo*, 185 Wis. 2d at 185. If a convicted offender did not raise his or her grounds for postconviction relief in a prior postconviction proceeding, or if prior litigation resolved the offender’s claims, they may not become the basis for a subsequent postconviction motion under § 974.06 unless the offender demonstrates a sufficient reason for failing to allege or adequately raise the claims in the prior proceeding. *Escalona-Naranjo*, 185 Wis. 2d at 181-82.

“Whether a WIS. STAT. § 974.06 motion alleges a sufficient reason for failing to bring available claims earlier is a question of law subject to *de novo* review.” *State v. Romero-Georgana*, 2014 WI 83, ¶30, 360 Wis. 2d 522, 849 N.W.2d 668 (italics added). Here, Chisem fails to present any reason, much less a sufficient reason, to excuse his failure to previously raise his claim of sufficiency of the evidence. *See Escalona-Naranjo*, 185 Wis. 2d at 181-82. Consequently, it is procedurally barred.<sup>2</sup>

IT IS ORDERED that the order is summarily affirmed. *See* 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>2</sup> We also note in passing that Chisem did not file a reply brief and, as a result, conceded the State’s procedural-bar argument. *See Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) (providing that unrefuted arguments are deemed conceded).