

witness; and (5) his trial counsel should have objected to the State’s failure to timely provide pretrial discovery to him pertaining to Didier. We conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. Upon review, we affirm.

Martin-Andrade first argues that the prosecutor improperly vouched for the truthfulness of the child victim during closing argument.² We agree with and adopt the following analysis by the circuit court rejecting this argument:

The defendant quotes the prosecutor out-of-context as arguing the victim was truthful in her testimony and claims that these comments constitute improper vouching. However, the total context of the prosecutor’s comments demonstrate that he was not personally (or on behalf of the State) vouching for the credibility of the victim at all; rather, he was inviting the jury to infer that she was being truthful based on her age, presentation, the circumstances of her disclosure, and her own statements regarding her understanding of the importance of being truthful.... The court finds nothing objectionable about the prosecutor’s statements. This was not an instance of where the prosecutor was hinting or telling the jury “reasons unknown to it for believing that a government witness is telling the truth.” *United States v. Edwards*, 581 F.3d 604, 609 (7th Cir. 2009). Rather, the prosecutor was arguing that the evidence and the record showed the victim to be truthful—again, based on her age, presentation, the circumstances of her disclosure, and her own statements regarding her understanding of the importance of being truthful. A prosecutor may comment on the credibility of witnesses provided that comment derives from the evidence. [Citations omitted].

Martin-Andrade next argues that he received constitutionally ineffective assistance of trial counsel when his lawyer failed to object to what he characterizes as the prosecutor’s improper vouching for the victim. As explained above, we reject the argument that the prosecutor’s actions

² The State argues that Martin-Andrade forfeited his right to raise this claim because his trial counsel did not object to the prosecutor’s remarks. Because Martin-Andrade has raised a claim of ineffective assistance of trial counsel based on his trial counsel’s failure to object to the prosecutor’s remarks, we address this issue on the merits despite the fact that Martin-Andrade’s trial counsel did not object.

were improper. Martin-Andrade’s trial counsel did not render ineffective assistance by failing to raise a meritless objection. See *State v. Golden*, 185 Wis. 2d 763, 771, 519 N.W.2d 659 (Ct. App. 1994). Therefore, we reject this argument.

Martin-Andrade next argues that he received ineffective assistance of trial counsel because his lawyer did not introduce evidence at trial pertaining to a medical examination of the victim. “[A] defendant who alleges ... that his postconviction counsel was ineffective for failing to bring certain viable claims must demonstrate that the claims he wishes to bring are clearly stronger than the claims postconviction counsel actually brought.” *State v. Romero-Georgana*, 2014 WI 83, ¶4, 360 Wis. 2d 522, 849 N.W.2d 668. Martin-Andrade has not met this bar. He has not explained why the medical evidence—which he contends would have shown that there was no physical evidence of sexual assault—would have been admissible at trial, nor has he shown that there is a reasonable probability that the result of the trial would have been different if his trial counsel had sought admission of this evidence. As aptly summarized by the circuit court, “the absence of such physical evidence does not support a reasonable inference that the assault did not occur” Because Martin-Andrade has not shown that this claim is clearly stronger than the claims his postconviction counsel brought, his claim fails under *Romero-Georgana*.

Martin-Andrade next argues that his trial counsel was ineffective for failing to move to exclude testimony from the State’s expert witness, Amanda Didier, and for failing to object to the State’s failure to timely provide pretrial discovery to him pertaining to Didier. We addressed these claims in Martin-Andrade’s prior direct appeal. “A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.” *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991). We will not consider these arguments further.

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.

Samuel A. Christensen
Clerk of Court of Appeals