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**DISTRICT III**

April 16, 2013

To:

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

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2012AP335

State of Wisconsin v. Luke C. Anderson (L. C. #2002CF271)

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve Judge.

Luke Anderson, pro se, appeals an order denying his WIS. STAT. § 974.06<sup>1</sup> 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. We reject Anderson's arguments, and summarily affirm the order. *See* WIS. STAT. RULE 809.21.

In April 2002, Anderson was charged with second-degree sexual assault of a child. In June 2003, he filed a motion to dismiss alleging his due process rights were violated by the

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

fourteen-month precharging delay. After a hearing, the court denied the motion, concluding Anderson had established neither prejudice nor improper motive on the part of the prosecutor. In January 2004, Anderson filed a motion to dismiss alleging a violation of his speedy trial right and other due process violations. After a hearing, the court denied Anderson's motion, concluding Anderson was not prejudiced by the delays and, in fact, caused the delays himself by firing his various attorneys.

Pursuant to a subsequent plea agreement, Anderson pleaded no contest to a reduced charge of third-degree sexual assault. The court withheld sentence and imposed thirty months' probation. Anderson's postconviction motion for plea withdrawal was denied and this court affirmed his conviction on direct appeal. See *State v. Anderson*, No. 2005AP1248-CR, unpublished slip op. (WI App Jan. 10, 2006).

Anderson then filed numerous motions and documents, including motions for plea withdrawal on various grounds. The circuit court denied these motions and Anderson's motions for reconsideration on their merits. Those orders were affirmed on appeal. See *State v. Anderson*, No. 2007AP1064, unpublished slip op. (WI App Aug. 18, 2009). In that decision, we noted that although the circuit court reached the merits of Anderson's motions, they could have been denied as procedurally barred under WIS. STAT. § 974.06(4) and *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994).

In March 2011, Anderson filed a motion to dismiss in the circuit court, renewing his claim of a precharging delay and denial of his speedy trial right. Anderson also moved the circuit court to exempt him from the sex offender registration requirement, acknowledging that the circuit court had earlier denied the same request. In a May 3, 2011 order, the circuit court

denied Anderson's motions, noting that Anderson's requests had been raised and rejected. On January 23, 2012, Anderson filed another motion challenging the precharging delay and requesting the sex offender registration exemption. Anderson's requests were again denied and this appeal follows.

We conclude that Anderson's motion was properly denied as procedurally barred. In *Escalona-Naranjo*, our supreme court held that "a motion under [WIS. STAT. §] 974.06 could not be used to review issues which were or could have been litigated on direct appeal." *Escalona-Naranjo*, 185 Wis. 2d at 172. The statute, however, does not preclude a defendant from raising "an issue of constitutional dimension which for *sufficient reason* was not asserted or was inadequately raised in his [or her] original, supplemental or amended postconviction motions." *Id.* at 184.

Anderson contends he was not aware at the time of his direct appeal that he had to raise all of his claims at one time. This conclusory assertion does not constitute a sufficient reason for circumventing the procedural bar. Anderson's claims either were or could have been raised on direct appeal or in his earlier motions. Anderson is therefore barred from raising or relitigating them now.

Upon the foregoing,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*