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DISTRICT IV

November 17, 2015

To:

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

2014AP152

State of Wisconsin v. Daniel A. Schillinger (L.C. # 2008CF391)

Before Lundsten, Sherman and Blanchard, JJ.

Daniel Schillinger appeals an order denying his postconviction motion filed under Wis. STAT. § 974.06. 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 (2013-14).¹ We affirm.

¹ All further references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Schillinger was convicted in 2009 of first-degree sexual assault of a child. He filed a postconviction motion under WIS. STAT. RULE 809.30, which was denied, and we affirmed the denial on appeal. Schillinger filed his current postconviction motion in 2013.

Schillinger first argues that his trial counsel was ineffective by not objecting to testimony from a detective that people accused of sexual assault commonly deny the assault. We previously rejected this argument in the first appeal, on the ground that there was no prejudice, and therefore Schillinger cannot relitigate it now. *See State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) (previously litigated matter may not be relitigated in a subsequent postconviction proceeding).

Schillinger next argues that the circuit court erred at trial when it instructed the jury, in response to a jury question, that it was of no consequence who initiated the charges in this case. We concluded in the first appeal that this instruction was not erroneous, and Schillinger is therefore barred by *Witkowski* from making this argument as well.

Schillinger next argues that prejudice occurred because of the combination of the above two issues. However, we have already held, as to the second issue, that no error occurred, and that, as to the first issue, there was no prejudice. It follows that the two issues, in combination, do not warrant reversal.

Schillinger also makes arguments about a videotape of the victim, contested divorce issues, and an alleged conflict of interest by trial counsel. None of these arguments are sufficiently developed, as to either the facts or law. We decline to address these insufficiently developed arguments. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

IT IS ORDERED that the order appealed is summarily affirmed under Wis. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals