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October 11, 2016

To:

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

2015AP1730

State v. Steve Johnson (L.C. # 2008CF195)

Before Kessler, Brennan and Brash, JJ.

Steve Johnson, *pro se*, appeals from the circuit court's order denying his motion for postconviction relief. Johnson asks us to exercise our discretionary power to reverse his robbery conviction on the grounds that he was denied the right to confront and cross-examine the victim. *See* WIS. STAT. § 752.35 (2013-14).¹ Based on 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 affirm.

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

Johnson is procedurally barred from pursuing his argument on appeal under *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994), and WIS. STAT. § 974.06(4). *Escalona-Naranjo* teaches that a defendant must raise all grounds for postconviction relief in his or her original, supplemental, or amended motion. *Id.* at 181. If a defendant's grounds for relief were not raised in a prior postconviction motion, they may not become the basis for a subsequent postconviction motion unless the defendant shows a sufficient reason for failing to previously raise the issue. *Id.* Conversely, if a defendant's grounds for relief *were* previously adjudicated during postconviction and/or appellate proceedings, they may not become the basis for a subsequent postconviction motion unless the defendant shows a sufficient reason for failing to *adequately argue* the issue in the original, supplemental or amended motion. *Id.* at 181-82. *Escalona-Naranjo* explains:

We need finality in our litigation. Section 974.06(4) compels a prisoner to raise all grounds regarding postconviction relief in his or her original, supplemental or amended motion. Successive motions and appeals, which all could have been brought at the same time, run counter to the design and purpose of the legislation.

Id., 185 Wis. 2d at 185.

Johnson has previously moved for postconviction relief on the grounds that he was not allowed to confront and cross-examine the victim. Johnson's current claim is barred because it has been previously adjudicated. To the extent Johnson casts his claim as a new argument because he requests that we exercise our discretionary power to reverse under WIS. STAT. § 752.35 based on the alleged error, the claim is barred because Johnson has not presented a sufficient reason for failing to previously raise this argument.

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals