

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 25, 2013

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2012AP1975

Cir. Ct. No. 2001CF934

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

DAVID E. BOWERS,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Outagamie County:
MARK J. MCGINNIS, Judge. *Affirmed.*

Before Hoover, P.J., Mangerson and Stark, JJ.

¶1 PER CURIAM. This is another in a series of appeals by David Bowers, pro se, seeking to vacate his reconfinement after revocation of extended supervision. We affirm the circuit court's order, and also conclude that sanctions

must be imposed on Bowers to discourage his attempts to present repetitious challenges to his sentence after revocation.

¶2 In 2002, Bowers was convicted of battery to a law enforcement officer, as a habitual criminal. Following revocation of his extended supervision in 2008, Bowers was reconfined for the remainder of his sentence. Bowers filed a direct appeal, and we summarily affirmed the reconfinement order. *State v. Bowers*, No. 2008AP2615-CR, unpublished op. and order (WI App Sept. 1, 2009). In our decision, we determined Bowers' argument was incomprehensible. We also noted Bowers did not explain why he believed he was discharged before the reconfinement order, or cite any part of the record to establish the discharge. *Id.* at 1-2. In addition, Bowers neither ordered preparation of the transcript of the reconfinement hearing, nor established that he preserved any issue regarding the calculation of his remaining sentence. *Id.* at 2.

¶3 Despite our decision affirming his conviction, Bowers continued his efforts to challenge the reconfinement order by filing a series of incoherent postconviction motions. On May 14, 2012, Bowers filed another notice of appeal, again seeking to vacate the reconfinement order. On August 24, 2012, we dismissed the appeal, noting that Bowers had already appealed that order and could not appeal the order again.

¶4 Just days later, Bowers filed another notice of appeal. Once again, he seeks to vacate the reconfinement order.

¶5 A matter once litigated may not be relitigated in a subsequent proceeding. *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991). The present appeal is just one more of Bowers' repeated attempts to challenge the 2008 reconfinement order – an order we affirmed on direct appeal.

Moreover, Bowers has once again filed an appeal that is incoherent and lacks adequate record and legal citations. His argument will therefore not be further addressed. *See State v. Flynn*, 190 Wis. 2d 31, 58, 527 N.W.2d 343 (Ct. App. 1994).

¶6 Even if Bowers' filings could somehow be interpreted to raise "new" issues, he has not offered a "sufficient reason" for failing to raise such issues in his previous postconviction and appellate proceedings. *See State v. Escalona-Naranjo*, 185 Wis. 2d 168, 184, 517 N.W.2d 157 (1994). His claims are thus procedurally barred, and Bowers knows or should know that by now, given our prior decisions on his appeals. *See* WIS. STAT. § 974.06 (2011-12); *see also State v. Mikulance*, 2006 WI App 69, ¶11, 291 Wis. 2d 494, 713 N.W.2d 160.

¶7 By virtue of repeated adverse rulings, courts have informed Bowers in no uncertain terms that his continued insistence is unfounded and unwelcome. His repetitious filings are an abuse of the judicial system and have become an unwarranted drain on valuable judicial resources. "The right to self-representation is [not] a license not to comply with relevant rules of procedural and substantive law." *See Waushara Cnty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992).

¶8 It is apparent that additional measures are required to deter Bowers' continued efforts to attempt to re-litigate the same claims over and over. A court may exercise its inherent authority to ensure that it functions efficiently and effectively, both to administer justice and control its docket. *See State v. Casteel*, 2001 WI App 188, ¶23, 247 Wis. 2d 451, 634 N.W.2d 338. We conclude that it is appropriate to order the clerk of this court to refuse to accept any additional filings

from Bowers unless his filing is accompanied by an affidavit that provides all of the following:

- (1) a copy of the circuit court's written decision and order he wishes to appeal.
- (2) a statement demonstrating the specific grounds upon which the court can grant relief;
- (3) a statement demonstrating how the issues slated for review are different from those previously raised and decided; and
- (4) a statement demonstrating why the allegedly new claims are not procedurally or otherwise barred by prior proceedings and/or court rulings.

¶9 The clerk of this court shall return unfiled any paper that is not accompanied by an affidavit providing these statements. Furthermore, if we determine upon review of an affidavit in compliance with the above that Bowers states no claim, defense or appeal from which we may grant relief, we will refuse to accept the filing.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2011-12).

