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DISTRICT IV

January 23, 2026

To:

Hon. Frank D. Remington
Circuit Court Judge
Electronic Notice

John D. Flynn
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Brian Maus
P.O. Box 164
Antigo, WI 54409

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

2024AP37

State of Wisconsin ex rel. Brian Maus v. Lizzie Tegels
(L.C. # 2023CV875)

Before Blanchard, Kloppenburg, and Nashold, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Brian Maus, pro se, appeals a circuit court order that dismissed his petition for a writ of habeas corpus. 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 (2023-24).¹ We summarily affirm.

In 2009, Maus was convicted of burglary while armed with a dangerous weapon, armed robbery, and felony bail jumping in Langlade County Case No. 2005CF10, and sentenced to

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

prison. Maus appealed, and we affirmed. *State v. Maus*, No. 2013AP1529, unpublished slip op. (WI App July 1, 2014). Maus then filed a postconviction motion in the Langlade County Circuit Court, which was denied on October 23, 2014.

In April 2023, Maus filed the petition for a writ of habeas corpus underlying this appeal in Dane County Circuit Court, which was docketed as Dane County Case No. 2023CV875. The circuit court determined that Maus failed to satisfy the statutory requirements for a writ of habeas corpus because he had pursued a WIS. STAT. § 974.06 motion in 2014, but did not attach to his writ petition a copy of the § 974.06 motion or indicate its disposition. *See* WIS. STAT. § 782.03 (providing that a petition for a writ of habeas corpus “must contain a copy of any motion made under [§] 974.06 and shall indicate the disposition of the motion and the court in which the disposition was made”). The court therefore dismissed the petition. Maus appeals.

“A circuit court’s order denying a petition for writ of habeas corpus presents a mixed question of fact and law.” *State v. Pozo*, 2002 WI App 279, ¶6, 258 Wis. 2d 796, 654 N.W.2d 12. “Factual determinations will not be reversed unless clearly erroneous.” *Id.* Whether the writ is an available remedy is a question of law that we review de novo. *Id.*

Maus does not dispute that he failed to attach any prior WIS. STAT. § 974.06 motion to his writ petition. Rather, he asserts that he never filed a § 974.06 motion before filing the current petition. However, the circuit court took judicial notice of the circuit court docket entries for Langlade County Case No. 2005CF10, *see* WIS. STAT. § 902.01, and found that Maus pursued a § 974.06 motion in 2014. Maus does not make any argument challenging the court’s factual

finding that Maus previously pursued a § 974.06 motion in Langlade County.² Accordingly, we affirm the court’s decision to dismiss Maus’s habeas petition on grounds the petition did not comply with the requirements of WIS. STAT. § 782.03.

In addition to arguing that the circuit court erred in dismissing his writ petition, Maus asserts that the court also erred by failing to grant his requests for the court to: (1) appoint counsel for Maus for this habeas action; and (2) order the Clerk of the Circuit Court for Langlade County to transmit the record from Case No. 2005CF10, to allow the court to assess the merits of the petition. We disagree. First, a litigant is not entitled to appointed counsel for a habeas action. *See State ex rel. Payton v. Kolb*, 135 Wis. 2d 202, 207, 400 N.W.2d 285 (Ct. App. 1986) (“The [S]tate is not required to provide counsel for proceedings beyond an appeal as of right from a conviction.”). Second, because the court properly dismissed the petition as insufficient under WIS. STAT. § 782.03, the court did not reach the merits of the petition. Accordingly, the court did not err by declining to order the record from Maus’s underlying criminal case as part of a review of the merits.

Therefore,

² To the extent that Maus intends to contest the circuit court’s factual finding that Maus previously pursued a WIS. STAT. § 974.06 motion, that argument is inadequately developed and this court declines to address it. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). Additionally, our review of the circuit court electronic docket entries for Langlade County Case No. 2005CF10 indicates that Maus filed multiple motions on September 30, 2014, including a motion for an evidentiary hearing; that, on October 10, 2014, the State filed a “Motion to dismiss Defendant’s [§] 974.06 Postconviction Motion”; and that the court issued a Decision and Order on October 23, 2014.

IT IS ORDERED that the order is summarily affirmed pursuant to 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