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DISTRICT I

March 10, 2026

To:

Hon. M. Joseph Donald
Court of Appeals Judge
Electronic Notice

Christine A. Remington
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Antonio Mays 266902
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P.O. Box 3310
Oshkosh, WI 54903-3310

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

2024AP2584

State of Wisconsin v. Antonio Mays (L.C. # 2002CF271)

Before White, C.J., Colón, P.J., and Geenen, J.

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).

Antonio Mays, pro se, appeals an order denying his claim regarding his maximum discharge date. 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 (2023-24).¹ We summarily affirm.

Mays was convicted in June 2003 of armed robbery with the use of force, as a party to a crime. He was sentenced to ten years of initial confinement followed by ten years of extended

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

supervision. He appealed, through counsel, asserting a double jeopardy violation after a mistrial was declared during his first trial due to his extremely disruptive behavior. This court affirmed, *see State v. Mays (Mays I)*, No. 2004AP1888-CR, unpublished slip op. (WI App Aug. 30, 2005), and our supreme court denied his petition for review.

Mays then filed a pro se postconviction motion pursuant to WIS. STAT. § 974.06 in December 2005.² In that motion, he again argued a double jeopardy violation and asserted there was insufficient evidence to support his conviction. The circuit court denied the motion on the grounds that it was procedurally barred, citing *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). Mays did not appeal.

Mays filed another pro se WIS. STAT. § 974.06 motion in March 2006. In that motion, Mays argued that the circuit court erred when it denied his pretrial motion to suppress evidence found in a search of his girlfriend's house. He also argued that his Fifth Amendment rights were violated when he was not charged by grand jury indictment. The circuit court denied the motion, finding the arguments procedurally barred and meritless. Mays appealed, and this court

² During Mays' litigation history of filing WIS. STAT. § 974.06 motions in this matter, different versions of the Wisconsin Statutes were in effect; however, the language of § 974.06 in those versions is the same as the current version.

affirmed. *See State v. Mays (Mays II)*, No. 2006AP854, unpublished slip op. (WI App Sept. 18, 2007).³

Mays was released to extended supervision in January 2012. In March 2018, he was reconfined after being involved in a shooting.⁴ He then renewed his litigation of this matter by filing a third pro se WIS. STAT. § 974.06 motion in May 2018 alleging numerous claims of ineffective assistance of trial and postconviction counsel. The circuit court determined the motion was procedurally barred under *Escalona*. Mays did not appeal.

Mays then filed a pro se postconviction motion in June 2018 seeking sentence credit for the time he had spent on extended supervision prior to being reconfined. That motion was denied by the circuit court, stating that sentence computations are under the purview of the Department of Corrections (DOC). Mays did not appeal.

In June 2022, Mays filed another pro se postconviction motion seeking sentence credit for the time he spent on extended supervision, asserting that his sentence was completed in January 2022. The circuit court denied that motion, again stating that it has no authority over the

³ In a supplemental motion filed at the same time, Mays alleged ineffective assistance of both his trial and appellate counsel for failing to raise the issue of an error on his judgment of conviction, which included a habitual criminality enhancer. The circuit court did not address this issue; however, this court concluded that the inclusion of the habitual criminality enhancer on the judgment of conviction was a clerical error, and that it did not affect Mays' sentence. *State v. Mays (Mays II)*, No. 2006AP854, unpublished slip op., ¶¶18-20 (WI App Sept. 18, 2007). We therefore ordered that the judgment be amended. *Id.*, ¶20.

⁴ Mays was charged in that shooting incident in Milwaukee County Circuit Court Case No. 2018CF1428. After a jury trial held in October 2018, he was convicted of felony murder, first-degree reckless homicide using a dangerous weapon as a party to a crime, and two counts of being a felon in possession of a firearm. He was sentenced to 40 years of initial confinement and 15 years of extended supervision.

DOC's computations relating to a defendant's maximum discharge date. Mays appealed, and this court affirmed. See *State v. Mays (May III)*, No. 2022AP1101-CR, unpublished slip op. and order (WI App Apr. 25, 2023). His petition for review was denied.

Mays then filed a pro se petition for writ of habeas corpus with the circuit court in December 2024. In that petition, he argued that the court had relied on erroneous or inaccurate information relating to his revocation hearing in June 2018 when it denied his June 2022 postconviction motion.

The circuit court construed the petition as another WIS. STAT. § 974.06 postconviction motion and found that it was procedurally barred under *Escalona*. The circuit court further found Mays' arguments to be frivolous, noting that in its previous decision it had "merely referred [Mays] to the [DOC] to address his post-sentencing credit request," so any particular references relating to Mays' June 2018 revocation hearing were not relevant. This appeal follows.

Whether a defendant's claims are procedurally barred is a question of law that we review de novo. *State ex rel. Washington v. State*, 2012 WI App 74, ¶27, 343 Wis. 2d 434, 819 N.W.2d 305. We conclude that Mays' latest claims, although difficult to discern, are procedurally barred.

Mays continues to assert that he is being held past his maximum discharge date.⁵ He further contends that his extended supervision was not revoked at his June 2018 revocation

⁵ We note that our records reflect that in sentencing Mays in Milwaukee County Circuit Court Case No. 2018CF1428, the circuit court indicated his sentences in that case were "consecutive to any other case in any other matter," referencing the potential for revocation in this matter.

hearing, as referenced by the circuit court; rather, as he explained in his June 2022 postconviction motion, he was revoked in December 2018. Nevertheless, Mays appears to argue that the circuit court’s reference to his “date of revocation” as occurring in June 2018 is an error that warrants his release. However, as the circuit court pointed out, any references to the date of Mays’ revocation are not relevant to the court’s basis for denying his postconviction motion—that the DOC is responsible for calculating the maximum discharge date, and the courts do not have supervisory authority over the DOC. *See Kirsch v. Endicott*, 201 Wis. 2d 705, 718 n.4, 549 N.W.2d 761 (Ct. App. 1996).

In sum, Mays has now raised the claim relating to his maximum discharge date three times in the circuit court, with the decision of the circuit court previously affirmed by this court in *Mays III*. The claim has been fully litigated, and is therefore now procedurally barred. *See State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) (“A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.”). Mays cannot circumvent the procedural bar for successive litigation by labeling his motion as a petition for writ of habeas corpus. *See Escalona*, 185 Wis. 2d at 176-77.

Mays has abused the judicial process by repeatedly litigating the same matters, and his repetitive filings have become burdensome on the court system. The State consequently asks us to warn Mays that if he continues to file repetitious litigation related to his 2003 conviction, this court may impose conditions restricting the circumstances in which he may pursue appeals in this court. *See State v. Casteel*, 2001 WI App 188, ¶¶24-26, 247 Wis. 2d 451, 634 N.W.2d 338 (imposing sanctions against a litigant because he “abus[ed] the appellate process by repetitively litigating the same matters”). The State’s request is appropriate. We therefore caution Mays that

we will not tolerate squandering judicial resources with his repeated presentation of the same claims. We are prepared to impose appropriate sanctions should Mays repeat the claims he has previously made and should we conclude in the future that Mays' litigation is frivolous, abusively repetitive, or otherwise improper. *See id.*, ¶¶25-26.

For all the foregoing reasons,

IT IS ORDERED that the order is summarily affirmed. *See* 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