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DISTRICT I

March 24, 2026

To:

Hon. Michelle A. Havas
Circuit Court Judge
Electronic Notice

Daniel J. O'Brien
Electronic Notice

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

Frank Edward Lopez, Jr. 623223
Oshkosh Correctional Institution
P.O. Box 3310
Oshkosh, WI 54903-3310

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

2024AP2249

State of Wisconsin v. Frank Edward Lopez, Jr.
(L.C. # 2016CF1382)

Before White, C.J., Colón, P.J., and, Donald, 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).

Frank Edward Lopez, Jr., pro se, appeals the order denying his postconviction motion filed pursuant to WIS. STAT. § 974.06 (2023-24).¹ 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. We summarily affirm.

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

On March 30, 2016, Lopez shot the mother of his children in the head and she died from the gunshot wound. Lopez was charged with first-degree reckless homicide while using a dangerous weapon.

Lopez entered a guilty plea to one count of first-degree reckless homicide on September 19, 2016.² The trial court sentenced Lopez to twenty years of initial confinement and ten years of extended supervision.

On November 28, 2016, Lopez's trial counsel filed a notice of intent to pursue postconviction relief. On November 21, 2017, the State Public Defender's Office informed Lopez by letter that it was unable to appoint an attorney for an appeal because he did not return the necessary documentation to establish his financial eligibility for appointed counsel.³

On July 19, 2018, Attorney Thomas J. Flanagan filed a notice of retainer as counsel for Lopez. The same day, Attorney Flanagan filed a motion to withdraw Lopez's guilty plea on the ground that his plea was not made freely or voluntarily. In the motion, Lopez alleged that he was, in effect, "informed that he must choose between entering a guilty plea ... or face the prospect of beginning a trial ... without legal representation, with his former attorney testifying as a witness against him."

² The Honorable Jeffrey A. Conen presided over Lopez's plea, sentencing, and first postconviction motion, and the Honorable Michelle A. Havas presided over Lopez's second postconviction motion. For ease of reference, we refer to each as the trial court.

³ The record reflects that the notice of intent was filed in court on November 28, 2016, but was not brought to the clerk's office's attention for processing until September 19, 2017.

The trial court denied the motion finding that it was “conclusory” and “completely at odds with [Lopez’s] statement to the court that he was not threatened by anyone to give up his rights and enter his guilty plea.” The court stated that Lopez failed to set forth any allegations that would explain the discrepancy between his current assertions and what he told the court at the plea hearing. Lopez did not appeal.

Over six years later, in October 2024, Lopez, pro se, filed a second postconviction motion. From what we can discern from the motion, Lopez sought to challenge jurisdiction and Attorney Flanagan’s failure to properly pursue a WIS. STAT. RULE 809.30 appeal. The motion also alleged Lopez’s confrontation and cross-examination rights were violated.

The trial court found that all of Lopez’s claims were “conclusory, undeveloped, and unsupported, and therefore, insufficient to warrant relief.” The court further stated that Lopez’s jurisdiction challenge was procedurally barred because he did not raise it in the previous WIS. STAT. § 974.06 motion filed by Attorney Flanagan, and did not provide a sufficient reason to excuse his failure to do so. Additionally, the court stated that Lopez’s claim that Attorney Flanagan was ineffective for not preserving his WIS. STAT. RULE 809.30 deadlines needed to be pursued in this court.⁴ Lopez appeals.

As a preliminary matter, we note that Lopez’s brief does not comply with the rules of appellate procedure. The brief does not contain any citations to the record. *See* WIS. STAT. RULE 809.19(1)(d) & (1)(e). While a pro se brief is given considerable latitude, certain aspects

⁴ On appeal, Lopez clarifies that he does not seek to reinstate his direct appeal rights. As a result, we do not address this issue further.

of the brief must comply with the rules of appellate procedure. RULE 809.19(1); *Townsend v. Massey*, 2011 WI App 160, ¶27 n.5, 338 Wis. 2d 114, 808 N.W.2d 155.

Moreover, significantly, Lopez’s claims are conclusory and undeveloped. His arguments “are not developed themes reflecting any legal reasoning” and instead are “supported by only general statements.” *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). For example, from what we can discern, Lopez claims that the trial court lacked subject matter and personal jurisdiction to accept his guilty plea. Lopez, however, does not coherently explain why.

Lopez also appears to challenge his arrest, the sufficiency of the complaint, the denial of his right to confront and cross-examine his accusers, and the denial of his right to subpoena witnesses. Once again, Lopez does not develop a coherent argument on these claims nor does he explain why these claims were not waived by his guilty plea. *See State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886 (stating that a guilty plea constitutes a waiver of all non-jurisdictional defects, including constitutional claims). We do not address undeveloped arguments. *Pettit*, 171 Wis. 2d at 646-47.

Lastly, we perceive various other problems with Lopez’s claims, including, but not limited to the fact that Lopez failed to provide a “sufficient reason” for not raising his claims in

his first postconviction motion to withdraw his guilty plea.⁵ *State v. Escalona-Naranjo*, 185 Wis.2d 168, 185, 517 N.W.2d 157 (1994). While ineffective assistance of counsel may sometimes constitute a sufficient reason for failing to bring claims earlier, Lopez’s ineffective assistance of counsel claims are confusing and conclusory. *See State v. Romero-Georgana*, 2014 WI 83, ¶¶36-37, 360 Wis. 2d 522, 849 N.W.2d 668 (explaining that conclusory allegations that trial counsel was ineffective do not constitute a sufficient reason for failing to bring an available claim earlier). Accordingly, we conclude that the trial court properly denied Lopez’s motion without a hearing.

Therefore,

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

⁵ Lopez disagrees with the trial court’s characterization of his first postconviction motion as a WIS. STAT. § 976.04 motion. Even if we were to assume for the sake of argument that the motion was not a § 974.06 motion, the fact remains that Lopez did not raise his claims in the first motion. It is well settled that if a defendant “*did* file a motion under [WIS. STAT.] § 974.02 or a direct appeal or a previous motion under § 974.06, the defendant is barred from making a claim that could have been raised previously unless [the defendant] shows a sufficient reason for not making the claim earlier.” *State v. Romero-Georgana*, 2014 WI 83, ¶35, 360 Wis. 2d 522, 849 N.W.2d 668 (emphasis added).