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**DISTRICT II**

April 15, 2026

To:

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Amy Vanderhoef  
Clerk of Circuit Court  
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You are hereby notified that the Court has entered the following opinion and order:

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2023AP1837-CR

State of Wisconsin v. Joshua L. Vinson, Sr. (L.C. #2017CF790)

Before Neubauer, P.J., Gundrum, and Lazar, 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).**

Joshua L. Vinson, Sr. appeals from an order of the circuit court denying his motion for postconviction relief. Vinson asserts the court erred when it denied his motion and that he is entitled to withdraw his plea based upon ineffective assistance of counsel. 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).<sup>1</sup> We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

In 2017, the State charged Vinson with stalking, as a repeater, possession of cocaine, second and subsequent offense, and possession of drug paraphernalia, as a repeater. The circuit court conducted a preliminary hearing at which the arresting officer testified. The court found the officer's testimony "established a feasible account of [Vinson's] commission of a felony" and bound him over for trial. The State later filed an amended information, dropping the cocaine charge and adding a charge for possession of a narcotic drug, after testing at the State Crime Lab indicated the substance discovered in Vinson's possession was heroin, not cocaine.

Vinson reached a plea agreement with the State and submitted a plea questionnaire indicating he was pleading guilty to possession of a narcotic drug. At the plea hearing that same day, the circuit court explained to Vinson that the stalking charge would be dismissed and that the paraphernalia charge would be dismissed and read in. Vinson indicated he understood and raised no objections. The court also informed Vinson that testing had revealed the substance found in his possession was heroin rather than cocaine, and that provided part of the factual basis supporting Vinson's plea. Vinson indicated he understood this as well. Vinson then entered a no-contest plea to the possession of a narcotic drug charge.

The circuit court sentenced Vinson to three years of probation, imposing and staying a sentence of two years of initial confinement and two years of extended supervision. Vinson did not appeal. In December of 2019, Vinson's probation was revoked.

In August of 2020, Vinson filed a WIS. STAT. § 974.06 motion for postconviction relief, asserting the circuit court was without "[j]urisdiction to impose [Vinson's] sentence" for several reasons. The court denied the motion. Vinson appealed, and this court ultimately dismissed the

appeal as untimely. *State v. Vinson*, No. 2021AP1415, unpublished op. and order at 2 (WI App June 8, 2022).

Vinson then filed a “Writ of Error,” asserting that, inter alia, the circuit court lacked jurisdiction because Vinson was denied his right to a preliminary hearing and “notice” when “no evidence was introduced at the preliminary hearing which would support” the specific charge of possession of a narcotic drug. The court issued a written decision, concluding Vinson “was not deprived of his right to a preliminary hearing” because the court found probable cause that he committed a felony, and “[a]ny felony would do for purposes of a bindover.”

While Vinson’s appeal of that decision was pending in this court, Vinson filed the instant motion in circuit court, which he styled as a “[m]otion for [r]elief from judgment or order pursuant [to] WIS. STAT. [§] 806.07.” In this motion, Vinson argues his arrest violated his Fourth Amendment protections and “Fundamental Due Process” because there was not a “judicial determination of probable cause.” He also renewed his challenge to the court’s jurisdiction, claiming the court lacked competency to proceed to judgment and that the “Accusatory Instruments” filed against him were “defective” and therefore “void” because he was not served with a summons and complaint under the rules of civil procedure.

The circuit court concluded that Vinson’s arrest was valid, that Vinson “avowed himself to the jurisdiction of the [circuit] [c]ourt” when he entered his initial plea, and that Vinson’s case was conducted in accordance with proper criminal procedure. The court denied the motion, finding Vinson’s motion “fail[ed] to identify any legitimate issues.” Vinson appeals, arguing, for the first time, that he is entitled to withdraw his plea due to trial counsel’s purported

ineffectiveness for failing to object to the amended information and for failing to file a notice of appeal to directly appeal Vinson’s conviction.

“We need finality in our litigation.” *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). A defendant is barred from raising a claim in a WIS. STAT. § 974.06 motion if that claim was, or could have been, raised in a prior postconviction motion, unless the defendant demonstrates a “sufficient reason” for failing to do so. *Escalona-Naranjo*, 185 Wis. 2d at 181-82. Whether a claim is procedurally barred by *Escalona-Naranjo* is a question this court reviews de novo. *State v. Tolefree*, 209 Wis. 2d 421, 424, 563 N.W.2d 175 (Ct. App. 1997).

We conclude that Vinson’s arguments on appeal are procedurally barred by *Escalona-Naranjo* and that Vinson also forfeited these issues when he failed to raise them in his instant motion in the circuit court. Vinson raised two issues in his motion for relief: that he was denied due process when he was detained “without ... a judicial determination of probable cause” and that the State’s initial complaint against Vinson was “defective” under the rules of civil procedure. However, on appeal, Vinson argues entirely distinct issues, namely that counsel was ineffective for failing to file a notice of appeal and for failing to object to the State’s amended information.

“It is the often-repeated rule in this State that issues not raised or considered in the [circuit] court will not be considered for the first time on appeal.” *State v. Bodoh*, 226 Wis. 2d 718, 737, 595 N.W.2d 330 (1999) (citation omitted). It is similarly well-established that “[c]laims of ineffective [assistance of] trial counsel or whether grounds exist to withdraw a guilty plea cannot be reviewed on appeal absent a postconviction motion in the [circuit] court” which

raises those specific claims. *State ex rel. Rothering v. McCaughtry*, 205 Wis. 2d 675, 677-78, 556 N.W.2d 136 (Ct. App. 1996). Because Vinson failed to preserve these issues below, and because Vinson's failure to raise them in prior postconviction motions renders them barred by *Escalona-Naranjo*, we summarily affirm.

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

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*