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DISTRICT IV

May 21, 2026

To:

Hon. Vicki L. Clussman
Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Waupaca County Courthouse
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Christopher M. Wennesberg, #713304
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P.O. Box 233
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You are hereby notified that the Court has entered the following opinion and order:

2024AP1038-CR	State v. Christopher M. Wennesberg (L.C. # 2019CF362)
2024AP1039-CR	State v. Christopher M. Wennesberg (L.C. # 2019CF202)

Before Kloppenburg, Nashold, and Taylor, 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).

Christopher Wennesberg, pro se, appeals a circuit court order that denied Wennesberg's petition for a writ of habeas corpus seeking plea withdrawal based on ineffective assistance of trial counsel. Wennesberg contends that his trial counsel was ineffective by failing to investigate and failing to identify and pursue defenses. 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.

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

On August 29, 2022, Wennesberg was sentenced for one count of repeated sexual assault of the same child and one count of child enticement with sexual contact following convictions based on his no-contest pleas. Wennesberg filed a timely notice of intent to pursue postconviction relief but did not file a direct postconviction motion or appeal. Additionally, Wennesberg did not file a postconviction motion under WIS. STAT. § 974.06. Instead, in April 2024, Wennesberg filed the petition for habeas corpus underlying this appeal. The petition argued that Wennesberg was denied the effective assistance of trial counsel. On May 7, 2024, the circuit court denied the petition. Wennesberg appeals.

“Whether a writ of habeas corpus is available to the party seeking relief is a question of the law that we review de novo.” *State v. Pozo*, 2002 WI App 279, ¶6, 258 Wis. 2d 796, 654 N.W.2d 12. In *Pozo*, we explained:

Writ of habeas corpus is an equitable remedy that protects a person’s right to personal liberty by freeing him or her from illegal confinement. It arises in common law and is guaranteed by the state and federal constitutions, as well as by statute. Because it is an extraordinary writ, habeas corpus relief is available only where the petitioner demonstrates: (1) restraint of his or her liberty, (2) which restraint was imposed contrary to constitutional protections or by a body lacking jurisdiction and (3) no other adequate remedy available at law. Habeas corpus is not a substitute for appeal and therefore, a writ will not be issued where the petitioner has an otherwise adequate remedy that he or she may exercise to obtain the same relief.

Id., ¶8 (quoted sources omitted). Additionally, under WIS. STAT. § 974.06(8):

A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his or her detention.

Here, as explained, Wennesberg has not pursued postconviction relief under WIS. STAT. § 974.06. However, his arguments in his habeas petition and his briefs on appeal assert claims of ineffective assistance of counsel, which are constitutional claims that should be raised in a § 974.06 motion.² We conclude that § 974.06 provides a potential remedy at law and, therefore, habeas corpus relief is not available to Wennesberg at this time. *See Pozo*, 258 Wis. 2d 796, ¶8; *see also* § 974.06(8) (habeas corpus relief is not available if applicant fails “to apply for relief, by motion, to the court which sentenced the person”).

Because Wennesberg has an “adequate remedy available at law,” his petition for habeas corpus was properly denied by the circuit court. *See Pozo*, 258 Wis. 2d 796, ¶8. We affirm the circuit court’s order on that basis.

Finally, we note that, on appeal, Wennesberg asserts that his habeas petition was also intended to raise ineffective assistance of postconviction counsel, apparently seeking reinstatement of his direct appeal rights. It appears that Wennesberg may be asserting that his trial counsel was also obligated to continue as postconviction counsel but abandoned Wennesberg after filing the notice of intent. This claim is difficult to assess because Wennesberg has not sufficiently developed it factually or legally.³ In any event, a claim of

² The circuit court accepted Wennesberg’s filing as a habeas petition and denied it outright, without explanation. There is no dispute that the circuit court did not construe the filing as a postconviction motion filed under WIS. STAT. § 974.06.

³ The record indicates that Wennesberg was represented by retained trial counsel, who filed a timely notice of intent to pursue postconviction relief on Wennesberg’s behalf in September 2022. The notice of intent states that appellate counsel was “[t]o be determined.” In October 2022, the State Public Defender’s Office informed Wennesberg that it determined that he did not qualify for appointed counsel. It appears that Wennesberg’s trial counsel continued to represent Wennesberg for ongoing proceedings related to restitution until March 2023. Between November and December 2023, Wennesberg moved the circuit court to allow his trial counsel to withdraw, allowing Wennesberg to represent himself in postconviction proceedings while also moving to reinstate the postconviction deadlines. In those filings,

(continued)

ineffective assistance of postconviction counsel for failing to pursue a direct postconviction motion or notice of appeal must be pursued by habeas petition filed in this court, not the circuit court. See *State v. Evans*, 2004 WI 84, ¶¶4, 59, 273 Wis. 2d 192, 682 N.W.2d 784, *abrogated on other grounds by State ex rel. Coleman v. McCaughtry*, 2006 WI 49, ¶29, 290 Wis. 2d 352, 714 N.W.2d 900 (allegation that postconviction counsel erred by failing to take timely action in pursuit of defendant’s postconviction and appellate rights must be pursued in a petition for a writ of habeas corpus in this court under *State v. Knight*, 168 Wis. 2d 509, 484 N.W.2d 540 (1992)). Accordingly, any claim of ineffective assistance of postconviction counsel for allowing Wennesberg’s appellate deadlines to lapse is not before us in this appeal.

Therefore,

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

Wennesberg asserted that his trial counsel had abandoned him by failing to pursue postconviction relief on his behalf. It does not appear that the circuit court addressed those motions. We note that the motion to extend postconviction deadlines was misdirected to the circuit court because this court, not the circuit court, extends postconviction deadlines. See WIS. STAT. RULE 809.82(2).

In March 2024, Wennesberg filed a pro se motion in this court seeking to extend the time to file a postconviction motion or notice of appeal. Wennesberg stated that his trial counsel abandoned him and that the SPD denied his request for appointed counsel, and cited the difficulty of obtaining material from prison. This court denied the motion, determining that Wennesberg had not met the criteria for this court to extend the time to file a postconviction motion or notice of appeal under *State v. Quackenbush*, 2005 WI App 2, ¶14, 278 Wis. 2d 611, 692 N.W.2d 340.