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DISTRICT I

June 23, 2026

To:

Hon. T. Christopher Dee
Circuit Court Judge
Electronic Notice

Jacob J. Wittwer
Electronic Notice

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

Syed K. Rizvi 471376
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You are hereby notified that the Court has entered the following opinion and order:

2023AP445

State of Wisconsin v. Syed K. Rizvi (L.C. # 2014CF3846)

Before Donald, 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).

Syed K. Rizvi, pro se, appeals from an order of the circuit court denying his WIS. STAT. § 974.06 (2023-24)¹ motion for postconviction relief. 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. For the following reasons, we affirm.

The State charged Rizvi with attempted first-degree intentional homicide, first-degree reckless injury, and aggravated battery, all as party to a crime with the “use of a dangerous

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

weapon” penalty enhancer. The complaint alleged that Rizvi, then the owner and manager of a convenience store, committed three offenses against T.D., a former employee. The allegations in the complaint were based on statements given by an employee of the store, Sherrone Thornton, and by T.D. Both Thornton and T.D. told a detective that Rizvi, with the assistance of another employee, had participated in a beating of T.D. According to T.D., the beating allegedly included Rizvi using a gun to strike T.D. in the head. According to both accounts, immediately after the beating, Rizvi and the other employee took T.D. behind the store, where Rizvi shot T.D. in the head, resulting in severe but non-fatal injuries.

The matter proceeded to trial. The jury acquitted Rizvi of attempted homicide, but found him guilty of reckless injury and aggravated battery, both as a party to the crime. The jury further found that Rizvi had used a dangerous weapon in committing both the reckless injury and aggravated battery. The trial court sentenced Rizvi to 15 years of initial confinement and 6 years of extended supervision.

While the jury was deliberating, Rizvi made a threatening gesture to Detective Nicole Reaves, the detective who investigated T.D.’s beating. Rizvi simulated shooting Reaves by making the sign of a gun with his hand and fingers, pointing at his head, and nodding up and down. Rizvi was charged in a separate case as a result of these gestures and, in February 2017 pled guilty to threatening a law enforcement officer and was sentenced.

Later that year, in October 2017, Rizvi filed a postconviction motion for a new trial alleging ineffective assistance of counsel. The postconviction court denied the motion without a hearing and this court affirmed the judgment of conviction and the order denying postconviction relief. *See State v. Rizvi*, No. 2018AP316-CR, unpublished slip op. (May 23, 2019).

Rizvi, pro se, later filed the WIS. STAT. § 974.06 postconviction motion that underlies this appeal. Rizvi alleged that newly discovered evidence warranted a new trial and that counsel was ineffective for failing to introduce evidence from Thornton's interview with law enforcement indicating that Thornton was concerned about T.D. blaming him for the beating and shooting.

As to the newly discovered evidence claim, Rizvi alleged that certain statements made by Detective Reaves at his February 2017 sentencing hearing demonstrated considerable bias. At that hearing, Reaves gave a victim impact statement in which she made derogatory comments about Pakistan and the Pakistani culture. Rizvi, who is of Pakistani descent, argued that Reaves's statements constituted newly discovered evidence of an anti-Pakistani bias towards him that likely tainted her investigation. Rizvi alleged that his claims were not procedurally barred because postconviction counsel was ineffective for failing to raise these issues in his original postconviction motion.

The postconviction court denied the motion without a hearing finding that Rizvi failed to show a reasonable likelihood of a different result at trial and that neither of Rizvi's arguments were clearly stronger than the arguments postconviction counsel made in the original postconviction motion. This appeal follows.

On appeal, Rizvi reiterates his contention that Detective Reaves's comments at the February 2017 sentencing hearing constitute newly discovered evidence and that trial counsel was ineffective for not presenting evidence from Thornton's interview with law enforcement showing that Thornton expressed concern about T.D. blaming him for the beating and shooting. He also contends that postconviction counsel was ineffective for failing to raise these issues in his first postconviction motion. The State argues that Rizvi's claims are procedurally barred.

In a WIS. STAT. § 974.06 motion, a defendant must raise all grounds for relief in the original, supplemental, or amended motion. *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181, 517 N.W.2d 157 (1994). “[I]f the defendant’s grounds for relief have been finally adjudicated, waived[,] or not raised in a prior postconviction motion, they may not become the basis for a [§] 974.06 motion.” *Escalona-Naranjo*, 185 Wis. 2d at 181. An exception exists if a defendant is able to provide “a sufficient reason to raise a constitutional issue in a [§] 974.06 motion that could have been raised on direct appeal or in a [WIS. STAT. §] 974.02 motion.” *Escalona-Naranjo*, 185 Wis. 2d at 185. An ineffective assistance of postconviction counsel claim may be a sufficient reason for failing to earlier raise an available claim. *State v. Romero-Georgana*, 2014 WI 83, ¶36, 360 Wis. 2d 522, 849 N.W.2d 668. However, if a defendant alleges that postconviction counsel was ineffective for failing to raise certain issues, the defendant must prove that those issues are “clearly stronger” than the claims postconviction counsel did raise. *Id.*, ¶¶45, 46.

Rizvi contends that his claims are not procedurally barred because postconviction counsel failed to raise the issues underlying this appeal. As to the newly discovered evidence issue, Rizvi’s motion alleges that “the issue of Detective Reaves’s bias ... challenge[s] the integrity of the investigation and fairness of his trial” and would have warranted relief, making it clearly stronger than the ineffective assistance of counsel issues postconviction counsel did raise.

We review a postconviction court’s decision to grant or deny a new trial based on newly discovered evidence under the erroneous exercise of discretion standard. *State v. Edmunds*, 2008 WI App 33, ¶8, 308 Wis. 2d 374, 746 N.W.2d 590. To overcome *Escalona-Naranjo*’s procedural bar and receive a new trial based on newly discovered evidence, “a defendant must establish by clear and convincing evidence that ‘(1) the evidence was discovered after

conviction; (2) the defendant was not negligent in seeking [the] evidence; (3) the evidence is material to an issue in the case; and (4) the evidence is not merely cumulative.” *Edmunds*, 308 Wis. 2d 374, ¶13 (citation omitted). “Once those four criteria have been established, the court looks to ‘whether a reasonable probability exists that a different result would be reached in a [new] trial.’” *Id.* (citation omitted). Whether such a probability exists is a matter of law we review de novo. *State v. Plude*, 2008 WI 58, ¶33, 310 Wis. 2d 28, 750 N.W.2d 42.

While Detective Reaves’s comments are disturbing and derogatory, they do not amount to newly discovered evidence. Jumping directly to the final factor, we agree with the postconviction court that Rizvi cannot establish a reasonable probability of a different result at trial. Contrary to Rizvi’s theory of defense that he was not present during T.D.’s beating, both Thornton and T.D. testified that Rizvi was present when T.D. was beaten (Rizvi was convicted of the beating, not the shooting). Moreover, Detective Reaves’s statements followed Rizvi’s threatening gesture—if Rizvi were to receive a new trial which introduced Detective Reaves’s statements to impeach her credibility, the jury would also hear about Rizvi’s threat, which would undermine his own credibility. Under these circumstances, there is no reasonable probability that “a jury would find that the newly[]discovered evidence had a sufficient impact on other evidence presented at trial that a jury would have a reasonable doubt as to the defendant’s guilt.” *Id.*, ¶¶32-33. Consequently, postconviction counsel was not ineffective for failing to raise this claim previously.

As to Rizvi’s second claim with regard to trial counsel’s failure to introduce certain evidence, we note that Rizvi’s postconviction motion fails to engage in any sort of coherent “clearly stronger” analysis between his current claim and those previously raised. Indeed, he acknowledges this failure by stating that “[a] ‘comparative strength’ analysis’ ... is

inapplicable.” Consequently, Rizvi has failed to provide a “sufficient reason” to overcome the procedural bar.

For the foregoing reasons, we affirm the order denying Rizvi’s postconviction motion.

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