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DISTRICT III

July 21, 2026

To:

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Circuit Court Judge
Electronic Notice

Teuta Jonuzi
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Sharon Jorgenson
Clerk of Circuit Court
Polk County Justice Center
Electronic Notice

Donald V. Latorraca
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You are hereby notified that the Court has entered the following opinion and order:

2024AP1967

State of Wisconsin v. Darryl L. Christensen
(L. C. No. 2015CF159)

Before Stark, P.J., Hruz, and Gill, 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).

Darryl Christensen appeals from an order denying his postconviction motion for sentence modification. 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). We affirm on the basis that the sentence modification motion was procedurally barred by prior proceedings.

Christensen pled guilty in 2015 to five counts of second-degree sexual assault by a correctional officer. Each count involved a different female inmate with whom Christensen had sexual intercourse. Christensen reported to the presentence investigation report (PSI) author that

he had been diagnosed with chronic posttraumatic stress disorder (PTSD) and depression. He described sex as a stress reliever and stated that he believed he had developed a sexual addiction due, in part, to the stress of his job and the death of his father by suicide.

At sentencing, the circuit court observed that Christensen's statement to the PSI author that he had not "hurt anyone" did not align with the statutory scheme, which made his offenses of conviction far more serious than even aggravated battery. The court viewed the offenses as particularly severe due to the trauma inflicted on the victims and the power dynamics involved, which made the victims unable to resist Christensen's "predatory behavior."

As to Christensen's character, the circuit court acknowledged that Christensen had a stable life with no prior criminal history; that he had significant mental health issues including PTSD and depression; and that the Static-99R risk assessment tool showed he presented a low risk of sexual recidivism. However, the court explicitly noted that there was no evidence to support Christensen's claim that he had a sexual addiction. The court also found Christensen's assertion that he was susceptible to being seduced by his victims' so-called "provocative" behavior due to his own PTSD to be offensive and concluded that Christensen was not truly remorseful for his actions.

Given Christensen's targeting of vulnerable victims, the steps he had taken to avoid being caught, and the frequency of the offenses and the prolonged period of time over which they were committed, the circuit court decided that a significant prison term was necessary to protect society and to not depreciate the severity of the offenses. The court then sentenced Christensen to consecutive sentences totaling 30 years of initial confinement followed by 30 years of extended supervision.

After sentencing, Christensen moved to withdraw his pleas. The circuit court denied the plea withdrawal motion, and this court subsequently affirmed Christensen's convictions on direct appeal.

In 2021, Christensen moved to modify his sentences. Among the alleged grounds was that a newly conducted psychosexual evaluation of Christensen concluded that he was a good candidate for sex offender treatment and presented a low risk of recidivism. The circuit court concluded that the new psychosexual evaluation did not constitute a new sentencing factor, and it denied the motion. Christensen filed, but then voluntarily dismissed, an appeal from that decision.

In 2023, Christensen filed a second motion to modify his sentences, which is the subject of this appeal. This time, Christensen alleged as a new factor the impact his PTSD and depression had upon his conduct and ability to make decisions. In support of his motion, Christensen presented a report from a psychiatrist who opined, based upon a review of Christensen's mental health records and professional literature, that Christensen's PTSD and depression were "likely to have increased his risk of engaging in sexual assaultive and coercive behavior."

The circuit court denied the motion without an evidentiary hearing. The court stated that the motion was "untimely" because the impact of Christensen's PTSD and depression on his conduct could have been raised in one of his prior postconviction motions. The court further concluded that the new report did not constitute a new sentencing factor because Christensen's mental health issues were, in fact, considered at sentencing.

We first observe that Christensen's failure to previously raise the issue of what impact his PTSD and depression had upon his conduct is not a question of timeliness, but rather whether a procedural bar applies. No claim that could have been raised in a previously filed postconviction

motion or direct appeal can be the basis for a subsequent postconviction motion unless there was sufficient reason for failing to raise the claim in the earlier proceeding. *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). Whether a defendant is procedurally barred from filing a successive postconviction motion is a question of law subject to our de novo review. *State v. Romero-Georgana*, 2014 WI 83, ¶30, 360 Wis. 2d 522, 849 N.W.2d 668.

We conclude that Christensen's current claim is procedurally barred. Christensen was well aware at the time of sentencing that he had PTSD and depression, and he offered the PSI author his own opinion that those conditions made him susceptible to committing the offenses. After his sentencing, Christensen also was aware that the circuit court had rejected his susceptibility claim. Much of the scientific literature cited in Christensen's current motion was already in existence when Christensen filed his first two postconviction motions. Therefore, there is no sufficient reason why Christensen could not earlier have obtained and presented scientific evidence and expert opinion to bolster his rejected theory that PTSD and depression may have contributed to his behavior.

Upon the foregoing,

IT IS ORDERED that the order is summarily affirmed. WIS. STAT. RULE 809.21 (2023-24).

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

Samuel A. Christensen
Clerk of Court of Appeals