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DISTRICT II

November 4, 2026

To:

Hon. Robert S. Repischak
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Nicholas DeSantis
Electronic Notice

Shemaiah A. Mitchell #401397
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P.O. Box 3310
Oshkosh, WI 54903-3310

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

2025AP1694 State of Wisconsin v. Shemaiah A. Mitchell (L.C. #2018CF991)

Before Gundrum, Grogan, and LoCoco, 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).

Shemaiah A. Mitchell, pro se, appeals from a circuit court order that denied his WIS. STAT. § 974.06 (2023-24)[1] motion for postconviction relief without a hearing. 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 on the ground that all of the claims in Mitchell's motion are procedurally barred, pursuant to ***State v. Escalona-Naranjo***, 185 Wis. 2d 168, 517 N.W.2d 157 (1994).

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

In 2019, a jury found Mitchell guilty of attempted first-degree intentional homicide, physical abuse of a child, first-degree recklessly endangering safety, and disorderly conduct, all as a repeater and all with the use of a dangerous weapon. The evidence presented at trial showed that Mitchell had beaten his wife, "Mary," in the head with a hammer, had hit Mary's oldest son, "Ben," on the shoulder with the same hammer after Ben ducked to attempt avoiding a blow to his head, and had chased Mary's younger son, "Andy," with that hammer while threatening to kill everyone in the house.[2] Mitchell was sentenced to a total of 28 years of initial confinement and 17 years of extended supervision.

Mitchell, by counsel, filed a direct appeal of his convictions to this court. *See* ***State v. Mitchell***, No. 2020AP1457-CR, unpublished slip op. and order (WI App Dec. 15, 2021).[3] His sole argument was that the circuit court improperly admitted two hearsay statements at trial from Mary's then-seven-year-old daughter, who did not testify. ***Id.*** We concluded that one of the statements was properly admitted as an excited utterance and that any error in admitting the

[2] We use the same pseudonyms as the State to refer to the victims and witnesses involved.

In his reply brief to this court, Mitchell argues that the State presents false information "within [its] brief that had nothing to do with the case at hand[,]" and wonders "who is this (Mary)(Ben)(Andy)[,]" who do "not have anything to do with the case[?]" For Mitchell's information, we note that this court and its litigants are directed to use pseudonyms to protect the privacy and confidentiality of victims and witnesses. *See* WIS. STAT. RULE 809.86(4).

[3] We pause here to briefly address Mitchell's repeated insistence that there was insufficient evidence presented at trial on which to convict him. In our summary disposition of Mitchell's direct appeal, we noted that despite the consistent statements that Mary, Ben, and Andy made to police immediately following the events in question, in an apparent attempt to shield Mitchell from the consequences of his actions, all three testified at trial that they essentially have no memory of that night whatsoever. We further noted that "[t]he circuit court later described the 'depth of the contrived amnesia' as 'ridiculous.'" *See* ***State v. Mitchell***, No. 2020AP1457-CR, unpublished slip op. and order at 2 n.3 (WI App Dec. 15, 2021). Based on the statements provided to police officers by those involved, including Mitchell himself, as well as officer observations, photographs, and other evidence presented to the jury, we conclude that there was ample evidence on which to convict Mitchell of all four charged offenses.

second statement was harmless. ***Id.*** at 3-4. The Wisconsin Supreme Court denied Mitchell's petition for review.

In July 2025, Mitchell filed a 43-page pro se motion for postconviction relief in the circuit court, pursuant to WIS. STAT. § 974.06. The motion consisted primarily of excerpts of testimony from Mitchell's jury trial. Mitchell argued that his trial counsel was ineffective for "not having any kind of defense," that trial counsel refused to file "any kind of defense motions," and that trial counsel "sold him out." He further argued that postconviction counsel did not do a "full investigation," because if he had, counsel would have seen that there was "no evidence[] nor any witnesses" linking Mitchell to "any crime(s)[.]" Mitchell claimed postconviction counsel also "sold him out" for this reason.

The circuit court denied Mitchell's WIS. STAT. § 974.06 motion without a hearing. The court concluded that the allegations in the motion are conclusory and that Mitchell fails to explain how a "full investigation" would yield a different result. Mitchell now appeals.

We conclude that the circuit court did not err by denying Mitchell's WIS. STAT. § 974.06 motion without a hearing because all of the claims in the motion are procedurally barred. *See* ***State v. Allen***, 2004 WI 106, ¶9, 274 Wis. 2d 568, 682 N.W.2d 433 (explaining that a court may deny a postconviction motion without a hearing if the Record conclusively demonstrates that the defendant is not entitled to relief). A claim that could have been raised in a previously filed postconviction motion or direct appeal cannot be the basis for a subsequent § 974.06 motion unless the court finds that there was a sufficient reason for the defendant's failure to raise the claim in the earlier proceeding. ***Escalona-Naranjo***, 185 Wis. 2d at 185; *see also* § 974.06(4). "Whether a ... § 974.06 motion alleges a sufficient reason for failing to bring available claims

earlier is a question of law subject to de novo review." ***State v. Romero-Georgana***, 2014 WI 83, ¶30, 360 Wis. 2d 522, 849 N.W.2d 668.

Mitchell does not assert in his WIS. STAT. § 974.06 motion—much less develop any argument—that the issues raised in the motion were clearly stronger than the issues counsel raised on direct appeal. The only mention of the "clearly stronger" requirement in Mitchell's motion is in his recitation of the principles of law that apply to claims of ineffective assistance of counsel. He does not even mention the hearsay claims his counsel raised on direct appeal, much less provide a comparison between those claims and his new claims. Mitchell's motion therefore failed to show that counsel was ineffective by failing to raise Mitchell's current claims. As a result, Mitchell's motion does not provide a sufficient reason for his failure to raise those claims on direct appeal.

Mitchell also has failed to present to this court a developed argument showing why his current claims are clearly stronger than the claims raised on direct appeal. Like his postconviction motion to the circuit court, Mitchell's appellate briefs are devoid of analysis regarding the "clearly stronger" benchmark, again containing one lone mention of the doctrine in his principal brief, and failing to even mention it in his reply. This court need not address undeveloped arguments, *see* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992), and we decline to do so here.

On the foregoing reasons,

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.

Samuel A. Christensen
Clerk of Court of Appeals