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DISTRICT IV

November 19, 2026

To:

Hon. Elliott M. Levine
Circuit Court Judge
Electronic Notice

Tammy Pedretti
Clerk of Circuit Court
La Crosse County Courthouse
Electronic Notice

Jacob J. Wittwer
Electronic Notice

Michael A. Alexander 458450
Stanley Correctional Institution
100 Corrections Dr.
Stanley, WI 54768

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

2024AP1940 State of Wisconsin v. Michael A. Alexander (L.C. # 2003CF352)

Before Graham, P.J., Kloppenburg, and Nashold, 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).

Michael A. Alexander appeals a July 2024 circuit court order denying his motion to reopen postconviction proceedings. 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] Because we conclude that Alexander has not shown a legal basis for reopening proceedings on his procedurally barred motion, we affirm.

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

In 2004, a jury convicted Alexander of first-degree intentional homicide, attempted first-degree intentional homicide, and two counts of first-degree recklessly endangering safety, all while armed as a repeat offender. Alexander's defense at trial was that he acted in self-defense when he fired shots at several people inside a nightclub, killing one and injuring others. After his conviction, Alexander filed a direct appeal by counsel alleging that the circuit court erred in various rulings and in denying his postconviction motions, which included a claim of ineffective assistance of trial counsel. This court affirmed the judgment and the order denying the postconviction motion in 2008. ***State v. Alexander***, No. 2007AP1270-CR, unpublished slip op. (WI App May 1, 2008).

Alexander then filed a ***Knight*** petition, arguing ineffective assistance of appellate counsel, which this court summarily denied in 2009.[2] ***State ex rel. Alexander v. Grams***, No. 2009AP1341-W, unpublished op. and order (WI App Oct. 28, 2009). In 2011, Alexander filed a pro se motion for postconviction relief pursuant to WIS. STAT. § 974.06; we affirmed the circuit court's denial of that motion without a hearing in 2013. ***State v. Alexander***, No. 2011AP2987, unpublished slip op. (WI App Apr. 11, 2013). Alexander filed another § 974.06 motion in 2016, claiming that his trial counsel was unconstitutionally ineffective for, among other things, failing to correctly advise Alexander on the law of self-defense. The circuit court denied that motion on the ground that it was barred under ***State v. Escalona-Naranjo***, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), and we affirmed. ***State v. Alexander***, No. 2016AP2007, unpublished op. and order (WI App Dec. 26, 2017). We also affirmed the circuit court's denial of Alexander's 2021 motion for sentence modification on the ground that it was barred by

[2] ***State v. Knight***, 168 Wis. 2d 509, 484 N.W.2d 540 (1992).

Escalona-Naranjo. ***State v. Alexander***, No. 2021AP2092-CR, unpublished op. and order (WI App May 4, 2023).

Alexander filed the motion underlying this appeal in June 2024. He asserted that postconviction proceedings on his 2016 motion should be reopened pursuant to WIS. STAT. § 806.07(1)(h) due to the "extraordinary circumstances" of the circuit court clerk having misnumbered certain record materials and Alexander's trial counsel having provided ineffective assistance with respect to the law of self-defense. The circuit court denied the motion in an order dated July 18, 2024, determining that it was procedurally barred under ***Escalona-Naranjo***. Alexander appeals.

We reject Alexander's attempt to use WIS. STAT. § 806.07(1)(h) to evade the procedural bar of ***Escalona-Naranjo***, which prohibits a criminal defendant from raising a constitutional or postconviction claim in a subsequent motion under WIS. STAT. § 974.06 if the claim could have been raised in an earlier postconviction motion or on direct appeal. *See* ***Escalona-Naranjo***, 185 Wis. 2d 168, 185-86. Section 806.07(1)(h) provides for relief from a judgment for "[a]ny other reasons justifying relief." Our supreme court addressed the question of whether this statute authorizes a circuit court to grant a new trial to a convicted criminal defendant in ***State v. Henley***, 2010 WI 97, 328 Wis. 2d 544, 787 N.W.2d 350, and determined that it does not.

The ***Henley*** court observed that WIS. STAT. § 806.07(1)(h) is a civil procedure statute that "applies only in equitable actions" under well-established Wisconsin law. ***Henley***, 328 Wis. 2d 544, ¶¶69-70 (citing ***Nelson v. Taff***, 175 Wis. 2d 178, 187-88, 499 N.W.2d 685 (Ct. App. 1993)). Thus, § 806.07(1)(h) does not provide authority for granting relief in a criminal action. ***Henley***, 328 Wis. 2d 544, ¶69. If a convicted defendant could use this statute to challenge a conviction,

the court pointed out, there would be no reason to ever use WIS. STATS. §§ 974.02 and 974.06, which were created by the legislature to "provide the primary statutory means of postconviction relief for criminal defendants." ***Id.***, ¶¶44, 70.

Accordingly, Alexander cannot file a motion under WIS. STAT. § 806.07(1)(h) to reopen postconviction proceedings and pursue a procedurally barred claim of ineffective assistance of trial counsel. To the extent the claim that Alexander seeks to revisit was not raised in his first postconviction motion or on direct appeal, he has not shown that the claim could not have been raised earlier. We summarily affirm.

IT IS ORDERED that the order of the circuit court 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