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DISTRICT II

November 25, 2026

To:

Hon. Andrew J. Christenson
Circuit Court Judge
Electronic Notice

Michelle Weber
Clerk of Circuit Court
Fond du Lac County Courthouse
Electronic Notice

Kathleen E. Wood
Electronic Notice

Todd H. Neuenschwander #258093
Kettle Moraine Correctional Inst.
P.O. Box 31
Plymouth, WI 53073

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

2025AP2002-CR State of Wisconsin v. Todd H. Neuenschwander
(L.C. #2013CF497)

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).

Todd H. Neuenschwander, pro se, appeals from a circuit court order denying his postconviction motion 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 (2023-24).[1] We summarily affirm, for the reasons that follow.

The facts pertinent to this appeal are not disputed. Neuenschwander was charged with four crimes against children after his stepdaughters reported that he had repeatedly sexually

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

assaulted them beginning when one of the girls was around seven years old and the other in the third or fourth grade. When questioned by police, Neuenschwander admitted "that he touched both girls repeatedly in a sexual manner[.]"

Neuenschwander entered pleas of no contest to one count of first-degree sexual assault of a child and one count of repeated sexual assault of a child. The other two counts were dismissed and read in. During the plea hearing, the circuit court explained the elements of, and maximum penalties for, the two crimes to which Neuenschwander was pleading. The court confirmed with Neuenschwander that he understood the agreement with the State and the consequences of pleading no-contest, including that the State would be relieved of its duty to prove the elements of the crimes to which Neuenschwander was pleading. The court also confirmed that Neuenschwander had enough time to confer with his attorney, that he understood the elements of the two counts, and that the Criminal Complaint established a factual basis for the plea. The court then "reaffirm[ed]" Neuenschwander's intent to enter pleas to two of the four charges against him. Neuenschwander subsequently entered pleas of no contest to one count of first-degree sexual assault of a child, a class B felony, and one count of repeated sexual assault of the same child with fewer than three violations of first-degree sexual assault, a class C felony.

Considering the presentence investigation report (PSI), a separate psychosexual evaluation, the arguments of the parties, and other relevant information, the circuit court sentenced Neuenschwander to a total of 15 years of initial confinement and 15 years of extended supervision.

Neuenschwander's postconviction counsel filed a no-merit report, which we rejected after finding that three issues might have potential merit on appeal. Specifically, we observed

that the circuit court failed to advise Neuenschwander regarding the meaning of "sexual contact" during the plea colloquy; the court did not discuss the effect of dismissed and read-in charges during the plea colloquy; and the imposition of two DNA surcharges (as opposed to only one) may have been improper. After we reinstated Neuenschwander's postconviction rights, he filed a WIS. STAT. § 809.30 motion asking the court to vacate one of the DNA surcharges as unconstitutionally imposed. The court granted the motion and amended the judgment of conviction.

About eight years later, Neuenschwander filed a second postconviction motion, pro se, which he labeled as a "motion for sentence modification." This is the motion at issue in this appeal. Claiming that his trial counsel was ineffective and his no-contest pleas were not knowing, intelligent, and voluntary, Neuenschwander asked the circuit court to vacate his convictions and "offered" to plead to less serious offenses, including causing mental harm to, and neglecting, a child. The court denied the postconviction motion without a hearing because the Record conclusively shows that Neuenschwander is not entitled to relief. The court explained as follows:

> Because the files and records of the action conclusively show that the defendant is not entitled to any relief, the motion for sentence modification is denied. The [R]ecord reflects that the defendant had an understanding of the charges and their elements, proceedings, and possible penalties. There was no manifest injustice. There was no serious flaw in the fundamental integrity of the plea.

Neuenschwander appeals, raising the same arguments as in his motion along with some new arguments.

There are numerous grounds on which we rely to affirm the denial of Neuenschwander's postconviction motion. Although each one independently provides a sufficient basis for affirmance, we briefly explain each ground below.

First, it is well established that a person is barred from raising issues that he or she could have raised in a prior postconviction motion or on direct appeal unless he or she shows a "sufficient reason" why the claims were not previously raised. ***State v. Escalona-Naranjo***, 185 Wis. 2d 168, 181-82, 517 N.W.2d 157 (1994). We conclude that Neuenschwander's current claims are procedurally barred pursuant to ***Escalona-Naranjo*** because he has failed to allege any reason, much less a sufficient reason, for not raising these issues in his prior postconviction motion or on direct appeal. *See* ***State v. Lo***, 2003 WI 107, ¶44, 264 Wis. 2d 1, 665 N.W.2d 756.

We further note Neuenschwander bears the burden on appeal of demonstrating that the circuit court erred, which he has completely failed even to attempt to demonstrate. *See* ***Gaethke v. Pozder***, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381. As a result, we are unable to provide him any relief. To explain, Neuenschwander's brief fails to comply with several requirements of the Wisconsin Rules of Appellate Procedure. First, the facts presented throughout Neuenschwander's brief-in-chief lack support from citations to the Record, as required by WIS. STAT. RULE 809.19(1)(d)-(e). *See* ***Madely v. RadioShack Corp.***, 2007 WI App 244, ¶14 n.7, 306 Wis. 2d 312, 742 N.W.2d 559 (explaining "we have no duty to scour the record to review arguments unaccompanied by adequate record citations."). Moreover, though Neuenschwander alleges that trial counsel performed deficiently during and leading up to the plea hearing, he does not cite ***Strickland v. Washington***, 466 U.S. 668 (1984), or otherwise present and apply the governing legal standards, and he fails to develop a sufficient legal argument to support his claims of error by the circuit court. "We may decline to review issues

inadequately briefed," ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992); *see also* ***Clean Wisconsin, Inc. v. PSC***, 2005 WI 93, ¶180 n.40, 282 Wis. 2d 250, 700 N.W.2d 768 (holding "[w]e will not address undeveloped arguments.").

We also will not abandon our neutrality to attempt to develop arguments for Neuenschwander. *See* ***Industrial Risk Insurers v. American Eng'g Testing, Inc.***, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. We are a "fast-paced, high-volume court[,]" and as such, "[t]here are limits beyond which we cannot go in overlooking these kinds of failings." ***Pettit***, 171 Wis. 2d at 647. Because his arguments on appeal are unsupported and undeveloped, Neuenschwander has utterly failed to establish any error by the circuit court in denying his postconviction motion without a hearing.

However, even if his arguments on appeal were not procedurally barred under ***Escalona-Naranjo*** and were adequately supported and developed, Neuenschwander still would not be entitled to any relief because he completely fails to argue why his latest postconviction motion was sufficiently pled such as to warrant a hearing on the issues. He instead raises new issues that he claims rendered his plea colloquy defective. Explaining further, Neuenschwander now alleges that he was not advised of the maximum penalties of the relevant crimes or the definition of "sexual contact" before entering his pleas. Not only does the Record belie Neuenschwander's claims, but we conclude he also has forfeited them. *See* ***State v. Huebner***, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727 ("It is a fundamental principle of appellate review that issues must be preserved at the circuit court. Issues that are not preserved at the circuit court, even alleged constitutional errors, generally will not be considered on appeal."). As such, we do not consider these new arguments.

Finally, we note that Neuenschwander did not file a Reply brief as required by WIS. STAT. RULE 809.19(4)(a) ("The appellant shall file a reply brief, or a statement that a reply brief will not be filed[.]"). An appellant concedes arguments made by the Respondent when he fails to file a reply brief. ***Apple Hill Farms Dev., LLP v. Price***, 2012 WI App 69, ¶14, 342 Wis. 2d 162, 816 N.W.2d 914 (holding that a party conceded a matter by not filing a reply brief). Here, the State argues that: (1) Neuenschwander's latest postconviction issues are procedurally barred under ***Escalona-Naranjo***, and (2) in the alternative, that the circuit court properly denied his motion without a hearing because his claims were insufficiently pled and because he was not entitled to relief as a matter of law. In addition to the bases already provided to reject his arguments, we conclude that Neuenschwander has conceded the State's arguments by not responding to them in a Reply brief.

Upon 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