COURT OF APPEALS
DECISION
DATED AND FILED

DECEMBER 16, 1997

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No.   97-1709-CR

STATE OF WISCONSIN   IN COURT OF APPEALS
                                                    DISTRICT III

STATE OF WISCONSIN,

        PLAINTIFF-RESPONDENT,

    V.

JAMIE GOODRUM,

        DEFENDANT-APPELLANT.

        APPEAL from an order of the circuit court for Vilas County: JAMES P. JANSEN, Judge. *Affirmed.*

        Before Cane, P.J., Myse and Hoover, JJ.

        PER CURIAM. Jamie Goodrum appeals an order denying her postconviction motion filed pursuant to § 974.06, STATS. The motion alleged ineffective assistance of trial counsel for failure to preserve issues that were

deemed waived in Goodrum's earlier appeal (failure to pursue additional neuro-psychological testing to support her insanity plea and prosecutorial misconduct). The motion also raised an issue regarding the trial court's answering a question posed by the jury without Goodrum's knowledge and alleges that the court failed to articulate a reason for imposing consecutive life sentences for the murder of her two children. We conclude that the trial court properly denied the postconviction motion without a hearing.

The trial court may deny a motion under § 974.06, STATS., without a hearing if the motion states no basis for relief. *See* § 974.06(3), STATS. Goodrum's motion states no basis for relief because all but one of the issues are reformulations of contentions that were rejected in her previous appeal. The remaining issue, the trial court answering the jury's question, presents no grounds for relief.

In Goodrum's previous appeal, when addressing the request for retrial in the interest of justice, this court reviewed the underlying issues that Goodrum now seeks to review as a challenge to ineffective assistance of counsel. This court concluded that the failure to pursue additional neuro-psychological tests did not prejudice Goodrum's defense since all the expert witnesses could testify to a reasonable medical certainty without the tests. This court also held that the prosecutor's statements did not approach grounds for a new trial. The argument that the trial court failed to articulate a basis for the sentences was directly addressed and rejected in the earlier opinion. *See **State v. Goodrum***, 152 Wis.2d 540, 449 N.W.2d 41 (Ct. App. 1989). These issues may not be revisited by motion under § 974.06, STATS., regardless how artfully they are rephrased. *See **State v. Witkowski***, 163 Wis.2d 985, 990, 473 N.W.2d 512, 514 (Ct. App. 1991).

The issue relating to the trial court's answering a jury question was not raised in the earlier appeal. The postconviction motion does not show "sufficient reason" for not raising that issue in the first appeal. The trial court properly denied the motion based on that fact alone. *See* ***State v. Escalona-Naranjo***, 185 Wis.2d 168, 184, 517 N.W.2d 147, 163 (1994).

In addition, the motion provides no basis for relief on that issue. The postconviction hearing that preceded the previous appeal addressed whether the defense was informed of the jury's inquiry. The prosecutor suggested that the defense counsel was told of the note. Defense counsel did not contradict the prosecutor's assertion. Therefore, the record suggests no factual basis for the argument that the defense was unaware of the jury's questions. Finally, the trial court correctly answered the jury's question. The jury asked "Is there positive proof that [Goodrum] put the hammer [the murder weapon] in the car prior to killing her two children?" The court responded in writing, "I cannot answer that." The motion identifies no error in the trial court's answer and no prejudice resulting from Goodrum's alleged lack of knowledge that the question was asked.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1(b)5, STATS.