

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 10, 2005

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2004AP1437

Cir. Ct. No. 1994CF941976

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

MICHAEL ALAN WILLIAMS,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JEFFREY A. WAGNER, Judge. *Affirmed.*

Before Wedemeyer, P.J., Curley and Kessler, JJ.

¶1 PER CURIAM. Michael Alan Williams appeals from the order denying his motion to modify his sentence. He argues that the circuit court erred when it concluded that his claims were barred by *State v. Escalona-Naranjo*, 185

Wis. 2d 168, 185, 517 N.W.2d 157 (1994), and the doctrine of laches. Because we conclude that Williams' claims are barred by *Escalona-Naranjo*, we affirm.

¶2 In 1994, Williams pled guilty to two counts of first-degree and one count of second-degree sexual assault of a child. The court sentenced him to a total of fifty-four years in prison. In 1995, he moved to withdraw his guilty pleas on the ground that he had been denied his right to self-representation. The circuit court denied the motion and this court affirmed. See *State v. Williams*, No. 1995AP2671-CR, unpublished slip op. (Ct. App. June 18, 1996). In 1997, Williams filed a motion for postconviction relief under WIS. STAT. § 974.06 (1995-96), alleging that he received ineffective assistance of trial counsel for a variety of reasons. The circuit court again denied the motion, and this time Williams did not appeal.

¶3 In 2004, Williams brought another motion before the circuit court, this time seeking sentence modification. He argued that the State had breached his plea agreement, that his plea colloquy was misleading and inaccurate, that his sentence was based on inaccurate information in the presentence investigation report, and that the circuit court erred when it denied his request to represent himself. The court again denied his motion, finding that he could not relitigate the self-representation issue, and that any remaining issues were barred by *Escalona-Naranjo*, or the doctrine of laches. Williams appeals.

¶4 Williams argues before this court that he is entitled to resentencing because the State breached the plea agreement, the court based his sentence on inaccurate information in the PSI, he was not given adequate time to review

the PSI, and the court erred when it found him incompetent to represent himself but competent to enter a guilty plea.

¶5 In *Escalona-Naranjo*, 185 Wis. 2d at 185, the supreme court stated:

We need finality in our litigation. Section 974.06(4) compels a prisoner to raise all grounds regarding postconviction relief in his or her original, supplemental or amended motion. Successive motions and appeals, which all could have been brought at the same time, run counter to the design and purpose of the legislation.

A defendant must raise all grounds for relief in his or her original, supplemental or amended motion for postconviction relief. *Id.* at 181. If a defendant's grounds for relief have been finally adjudicated, waived or not raised in a prior postconviction motion, they may not become the basis for a new postconviction motion, unless there is a sufficient reason for the failure to allege or adequately raise the issue in the original motion. *Id.* at 181-82.

¶6 We agree with the circuit court that Williams may not relitigate, by means of a motion under WIS. STAT. § 974.06, issues previously decided by this court in his direct appeal. *See State v. Witkowski*, 163 Wis. 2d 985, 990-92, 473 N.W.2d 512 (Ct. App. 1991). Consequently, we conclude that the circuit court properly found that Williams may not relitigate the issue concerning self-representation. Further, we also agree with the circuit court that Williams has not offered a sufficient reason for why he did not previously raise his other claims. Consequently, we again agree with the circuit court that these claims are barred by *Escalona-Naranjo*. Since we conclude that the claims are barred under *Escalona-*

Naranjo, we need not address whether the doctrine of laches applies. For the reasons stated, we affirm the order of the circuit court.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

