COURT OF APPEALS
DECISION
DATED AND FILED

September 25, 2012

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2011AP2069 **Cir. Ct. No. 2011CV11336**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN EX REL. DELOND M. BLUNT,

PETITIONER-APPELLANT,

V.

JUDY P. SMITH, WARDEN, OSHKOSH CORRECTIONAL INSTITUTION,

RESPONDENT-RESPONDENT.

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

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

¶1 PER CURIAM. Delond M. Blunt, *pro se*, appeals an order dismissing his petition for writ of *habeas corpus*. The issue is whether the circuit court properly dismissed the petition. We conclude that it did. Therefore, we affirm.

¶2 On June 25, 2008, Blunt was convicted of two counts of second-degree sexual assault of a child. After sentencing, he signed a form indicating that he did not plan to pursue postconviction relief. On March 22, 2010, Blunt filed a motion to modify his sentence pursuant to WIS. STAT. § 973.19 (2009-10).[1] The circuit court denied the motion as untimely. On July 19, 2011, Blunt filed a petition for writ of *habeas corpus*. The circuit court dismissed the petition.

¶3 The statutes provide that a person may not petition for writ of *habeas corpus* if he or she has failed to apply for relief from the sentencing court or the sentencing court has denied relief. WIS. STAT. § 974.06(8). Case law has also long held that "habeas corpus will not be granted where other adequate remedies at law exist." ***State ex rel. Dowe v. Circuit Court for Waukesha Cnty***., 184 Wis. 2d 724, 729, 516 N.W.2d 714 (1994). Blunt chose not to take a direct appeal from his conviction. After the time for filing a direct appeal elapsed, he did not file a WIS. STAT. § 974.06 motion for postconviction relief raising his claims. Instead, he filed a petition for writ of *habeas corpus*. Because Blunt had adequate remedies at law through direct appeal or a motion under § 974.06, he is procedurally barred from raising his claims by petition for writ of *habeas corpus*.

¶4 Even if we were to consider the merits of Blunt's claims, Blunt would not be entitled to relief. Blunt first contends that he received ineffective assistance of trial counsel. In order to establish a claim of ineffective assistance of counsel, a defendant must show that his attorney's performance was deficient and the deficient performance prejudiced the defense. ***Strickland v. Washington***, 466

[1] All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

U.S. 668, 687 (1984). When a defendant has entered a guilty or no-contest plea, a defendant is prejudiced by his counsel's alleged errors only where "'there is a reasonable probability that, but for counsel's errors, [the defendant] would not have pleaded guilty and would have insisted on going to trial.'" ***State v. Bentley***, 201 Wis. 2d 303, 312, 548 N.W.2d 50 (1996) (citation omitted).

¶5 Blunt contends that his trial attorney coerced him into pleading guilty, failed to investigate, failed to submit a speedy trial motion and violated his due process rights. However, Blunt does not allege that, if his lawyer had acted differently, he would have chosen to go to trial rather than plead guilty. Blunt's failure to allege that he would not have pled guilty but for counsel's alleged actions is fatal to his claim of ineffective assistance of counsel.

¶6 Blunt next contends that the circuit court's plea colloquy was inadequate and perfunctory in violation of ***State v. Bangert***, 131 Wis. 2d 246, 389 N.W.2d 12 (1986). To prevail on a claim that a plea colloquy is deficient, "a defendant must allege he did not enter a knowing, intelligent, and voluntary plea *because* he did not know or understand information that should have been provided at the plea hearing." ***State v. Brown***, 2006 WI 100, ¶59, 293 Wis. 2d 594, 716 N.W.2d 906. Blunt has not met this burden because he has failed to articulate what, exactly, he believes was wrong with the plea colloquy, he has not explained what he did not understand, and he has not connected the alleged problems with the colloquy to his lack of understanding. Blunt's challenge to the plea colloquy is therefore unavailing.

By the Court.—Order affirmed.

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