



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

December 5, 2024

To:

Hon. Chris Taylor
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Christine A. Remington
Electronic Notice

Courtney M. Cowins 407326
Fox Lake Minimum Correctional Inst.
P.O. Box 200
Fox Lake, WI 53933-0200

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

2023AP197

State of Wisconsin v. Courtney M. Cowins (L.C. # 2009CF247)

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

Courtney Cowins, pro se, appeals a circuit court order that denied a postconviction motion he filed under WIS. STAT. § 974.06 (2021-22).¹ Based on our review of the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1). We affirm.

Cowins was convicted in 2009. His appointed counsel filed a no-merit appeal, and this court issued an opinion affirming his conviction based on our conclusion that there was no appealable issue with arguable merit. *See State v. Cowins*, No. 2010AP2339-CRNM,

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

unpublished op. and order (Dec. 13, 2011). Cowins later filed a WIS. STAT. § 974.06 motion.² The circuit court denied the motion, and Cowins appealed. We affirmed and, in doing so, we applied procedural bars that were based on the opportunities to present arguments that were available to Cowins in the prior no-merit appeal. *See State v. Cowins*, No. 2013AP1766, unpublished op. and order (Jan. 27, 2015). Cowins then filed a second § 974.06 motion in which he challenged this court’s jurisdiction over the no-merit appeal. The circuit court denied the motion, and Cowins now appeals the denial of that motion.

According to Cowins, we lacked jurisdiction over his no-merit appeal because one of the transcripts in the record at that time lacked the court reporter’s certification that is required by statute and Wisconsin Supreme Court Rules. Cowins argues that this lack of jurisdiction renders the no-merit appeal and any subsequent court orders based on the no-merit appeal void and meaningless.

We reject Cowins’ jurisdictional argument because he fails to cite authority supporting it. Specifically, he cites no authority for the proposition that we lack jurisdiction over an appeal when the record includes a transcript that is not properly certified, nor do we discern any reason why we would lack jurisdiction in that circumstance.

Separately, Cowins makes multiple arguments relating to a procedure that the circuit court used to reconstruct the missing court reporter certification. We reject these arguments without discussing each individually because they are not sufficiently developed to show that the court violated any right of Cowins in any way that would entitle him to postconviction relief.

² Cowins titled this motion as a petition for a writ of habeas corpus but relied on WIS. STAT. § 974.06 as authority for bringing the motion.

See State v. Pettit, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (explaining that the court of appeals may decline to address issues that are inadequately briefed). Although we make some allowances for deficiencies in a pro se party's brief, “[o]ur obligation does not extend to creating an issue and making an argument for the litigant.” *State ex rel. Harris v. Smith*, 220 Wis. 2d 158, 164-65, 582 N.W.2d 131 (Ct. App. 1998). “We cannot serve as both advocate and judge.” *Id.* at 165.

Therefore,

IT IS ORDERED that the circuit court's order is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

*Samuel A. Christensen
Clerk of Court of Appeals*