

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 20, 2013

Diane M. Fremgen
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. 2012AP34-CR

Cir. Ct. No. 1988CF882676

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

DAVID LOUIS WILLIAMS,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JONATHAN D. WATTS, Judge. *Affirmed.*

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

¶1 PER CURIAM. David Louis Williams, *pro se*, appeals from the circuit court's order denying his motion for sentence credit. The issue is whether Williams's arguments are barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168,

185, 517 N.W.2d 157 (1994). We conclude that his arguments are barred. Therefore, we affirm.

¶2 Williams was convicted of two counts of armed robbery in 1989. He filed a postconviction motion and an appeal to this court. We affirmed his conviction. He has since filed multiple postconviction motions and petitions for writ of *habeas corpus*, and has taken appeals to this court from several of the circuit court orders denying his requests for relief, including the motion for sentence credit from which this appeal is taken.

¶3 The postconviction procedures of WIS. STAT. § 974.06 (2011-12)¹ allow a defendant to attack his conviction after the time for appeal has expired. See *Escalona-Naranjo*, 185 Wis. 2d at 176. There is, however, a limitation: a claim that could have been raised on direct appeal or by prior motion is barred from being raised in a subsequent postconviction motion absent a sufficient reason for not raising the claim earlier. See *State v. Lo*, 2003 WI 107, ¶44, 264 Wis. 2d 1, 665 N.W.2d 756. Williams has not provided a sufficient reason for not previously raising his arguments. Therefore, his arguments are procedurally barred.

¶4 In Williams's reply brief, he asks us to consolidate this appeal with his prior claim of ineffective assistance of counsel raised by petition for writ of *habeas corpus*. That petition for writ of *habeas corpus* has already been denied. We cannot consolidate a case that has been decided with a pending appeal.

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Williams also raises a new issue in his reply brief, asking that we award him a new trial in the interest of justice pursuant to WIS. STAT. § 752.35. We will not consider this argument because Williams raised it for the first time in his reply brief. See *State v. Marquardt*, 2001 WI App 219, ¶14 n.3, 247 Wis. 2d 765, 635 N.W.2d 188.

By the Court.—Order affirmed.

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

