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DISTRICT III

May 6, 2025

To:

Hon. John B. Rhode
Circuit Court Judge
Electronic Notice

Tina Wild
Clerk of Circuit Court
Langlade County Courthouse
Electronic Notice

Hector Salim Al-Homsi
Electronic Notice

Anthony E. Rindahl 241666
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You are hereby notified that the Court has entered the following opinion and order:

2023AP2121

State of Wisconsin v. Anthony E. Rindahl (L. C. No. 2019CF202)

Before Stark, P.J., Hruz, and Gill, 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).

Anthony E. Rindahl, pro se, appeals from an order denying his WIS. STAT. § 974.06 (2023-24)¹ motion for postconviction relief. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We affirm.

Rindahl pled no contest to one count of second-degree sexual assault of a child pursuant to a plea agreement that dismissed and read in for sentencing a count of attempted first-degree sexual assault of a child involving a different victim. After sentencing, Rindahl filed a pro se

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

postconviction motion, raising numerous claims and seeking withdrawal of his plea. The circuit court denied the motion, and Rindahl filed a pro se direct appeal. We dismissed the appeal for lack of jurisdiction because no written order had been entered denying the postconviction motion. However, we noted in our dismissal order that Rindahl could file a new notice of appeal once the postconviction court had entered a written order. Instead, Rindahl filed a second pro se postconviction motion under WIS. STAT. § 974.06, which is at issue here, advancing three new claims: one pertaining to purportedly exculpatory evidence and two claims of ineffective assistance of trial counsel. The circuit court denied the motion without an evidentiary hearing.

It is well established that issues that could have been raised on direct appeal or a previously filed postconviction motion cannot be the basis for a subsequent WIS. STAT. § 974.06 motion unless the defendant provides a sufficient reason for failing to raise the issues in the earlier proceeding. *See State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994). This rule exists because “[w]e need finality in our litigation.” *Id.* “Whether a ... § 974.06 motion alleges a sufficient reason for failing to bring available claims earlier is a question of law subject to de novo review.” *State v. Romero-Georgana*, 2014 WI 83, ¶30, 360 Wis. 2d 522, 849 N.W.2d 668.

Rindahl’s second postconviction motion was procedurally barred because he failed to allege a sufficient reason for not raising his current issues in his first postconviction motion. *See Escalona-Naranjo*, 185 Wis. 2d at 185. Rindahl suggests that the fact that the circuit court reached the merits of his second postconviction motion means that this court should not apply the *Escalona-Naranjo* procedural bar. There is no legal basis for this assertion. Regardless of whether the circuit court chose to address the merits of Rindahl’s second postconviction motion, this court is not required to follow suit. All three of Rindahl’s claims in the second

postconviction motion were new and could have been raised in the first motion. Rindahl did not meet his burden to allege, let alone establish, a sufficient reason for why he did not raise his new claims in the first motion. Therefore, the issues he raises in his second motion are procedurally barred.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

*Samuel A. Christensen
Clerk of Court of Appeals*