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DISTRICT II

May 21, 2025

To:

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Circuit Court Judge
Electronic Notice

Lisa E.F. Kumfer
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Clerk of Circuit Court
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Joshua L. Vinson Sr., #319099
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Timothy L. Baldwin
Electronic Notice

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

2023AP253

State of Wisconsin v. Joshua L. Vinson, Sr. (L.C. #2018CF92)

Before Neubauer, Grogan, and Lazar, 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).

Joshua L. Vinson, Sr., pro se, appeals the order denying his pro se WIS. STAT. § 974.06 (2023-24)¹ motion and the subsequent order denying his motion for reconsideration. 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.

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

Vinson was charged with seven felonies, including repeated sexual assault of a child as a repeater and four felony bail-jumping counts as a repeater. He pled not guilty, and on the first morning of trial, the State moved to amend the charges to four felonies and informed Vinson and the trial court that it intended to seek a lesser-included-offense instruction for first-degree sexual assault on the repeated sexual assault of a child charge. The court approved the amended information for filing, and the case proceeded to trial.

After a four-day trial, a jury convicted Vinson of the lesser-included first-degree sexual assault of a child charge and one count of felony bail jumping.

After sentencing, postconviction counsel was appointed for Vinson. Counsel determined there were no meritorious issues for appeal and filed a no-merit report. The no-merit report identified and addressed 16 potential issues:

(1) sufficiency of the Complaint; (2) sufficiency of the preliminary hearing and Information; (3) Vinson's personal presence at the arraignment and entry of not guilty pleas to the charges; (4) Vinson's assertion of his right to a speedy trial; (5) pretrial evidentiary motions; (6) the filing of the Amended Information and notice to Vinson; (7) the jury selection, during which defense counsel successfully raised a *Batson*² challenge to the State's decision to strike the only two potential African-American jurors; (8) sufficiency of the evidence to support Vinson's convictions for first-degree sexual assault of a child and bail jumping; (9) Vinson's decision not to testify at trial; (10) jury instructions; (11) opening statements and closing arguments of counsel; (12) the circuit court's responses to the jury's questions during deliberations; (13) Vinson's competency, which was raised by defense counsel and addressed in presentencing proceedings; (14) the circuit court's denial of Vinson's request to adjourn sentencing to review the presentence investigation (PSI); (15) corrections to the PSI

² *Batson v. Kentucky*, 476 U.S. 79 (1986).

offered by the parties; and (16) the sentencing court's exercise of its discretion.

State v. Vinson, No. 2021AP370-CRNM, unpublished op. and order at 3 (WI App Oct. 27, 2021).

Vinson responded to the no-merit report, raising several additional issues, including: “(1) concerns about double jeopardy; (2) the sufficiency of the jury instructions; and (3) the constitutional effectiveness of his various attorneys.” *See id.* at 1-2. Within his double-jeopardy argument, Vinson argued that he lacked notice that he was being charged with the lesser-included offense of first-degree sexual assault of a child. *See id.* at 4. Vinson also argued that “the State failed to establish probable cause at the preliminary hearing.” *See id.* at 6.

We addressed postconviction counsel's and Vinson's pro se arguments in a summary order dated October 27, 2021, and affirmed Vinson's convictions. *See id.* at 8-9. Vinson petitioned the supreme court for review, and his petition was dismissed.

Vinson then filed a pro se WIS. STAT. § 974.06 motion alleging ineffective assistance of trial counsel and postconviction counsel. He again argued that he was not given notice of the charges against him and that the inclusion of the lesser-included offense violated double jeopardy. He also argued that: his *Miranda*³ rights were violated as he was never booked into the Racine County Jail on those charges; he was denied an initial appearance, a preliminary hearing, or arraignment; and he was subjected to general Constitutional violations, including denial of access to a speedy trial, not being in court for any appearances on the case, and not

³ *Miranda v. Arizona*, 384 U.S. 436 (1966).

receiving notice of any hearings. At no point did Vinson argue that a ***Riverside***⁴ violation had occurred.

The trial court denied Vinson's motion. Vinson filed a motion for reconsideration—again alleging, among other things, that the criminal complaint was invalid and additionally alleging that the court commissioner did not follow the procedures set forth in WIS. STAT. § 970.02 at his initial appearance. Again, no ***Riverside*** violation was alleged. The court denied the motion for reconsideration and Vinson appeals.

In this appeal, Vinson raises three primary issues.⁵ He first claims that the entire criminal proceeding is void because he was not served with a summons according to the rules of civil procedure. Second, Vinson alleges there was no probable cause for his arrest because the detectives should not have believed the victim. Third, Vinson argues that a ***Riverside*** violation occurred because he was arrested January 11, 2018, and his initial appearance did not occur until five days later, on January 16, 2018.

Regarding Vinson's first and second arguments, we must reject them because, substantively, they attempt to relitigate the claims that were addressed in his no-merit appeal. Specifically, Vinson is again arguing that the amended information was invalid and that he did not receive notice of the charges against him. Likewise, Vinson's accusations within this argument that several members of the trial court's and district attorney's staff committed errors

⁴ *County of Riverside v. McLaughlin*, 500 U.S. 44, 55-59 (1991), held, among other things, that where an arrested individual does not receive a probable cause determination within 48 hours, the burden of proof shifts to the State to show the existence of an emergency or other extraordinary circumstance.

⁵ To the extent Vinson raises additional sub-issues not addressed in this opinion, they are inadequately developed and will not be considered. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (this court will not consider undeveloped arguments).

causing the criminal complaint to be defective are merely a retooling of the claims raised in his no-merit response that fraud and misconduct deprived the court of jurisdiction. In addition, we already noted in the first appeal that Vinson alleged that “the State failed to establish probable cause at the preliminary hearing.” See *Vinson*, No. 2021AP370-CRNM at 6. This Court has already addressed these claims and we will not consider them again. See *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991) (“A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.”)

Regarding Vinson’s third argument, concerning an alleged *Riverside* violation, we reject it because Vinson did not raise it before the trial court in his WIS. STAT. § 974.06 motion. See *State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727 (“It is a fundamental principle of appellate review that issues must be preserved at the [trial] court. Issues that are not preserved at the [trial] court, even alleged constitutional errors, generally will not be considered on appeal.”); see also *Schonscheck v. Paccar, Inc.*, 2003 WI App 79, ¶11, 261 Wis. 2d 769, 661 N.W.2d 476 (this court will not “blindsides trial courts with reversals based on theories which did not originate in their forum” (citation omitted)).

Therefore,

IT IS ORDERED that the orders of the circuit court are 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