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DISTRICT IV

September 18, 2025

To:

Hon. Josann M. Reynolds
Circuit Court Judge
Electronic Notice

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Michael J. Conway
Electronic Notice

Jason R. Guetzlaff
615 E. Washington Ave.
Madison, WI 53703

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

2023AP392 State of Wisconsin v. Jason R. Guetzlaff (L.C. # 2014CF2522)

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

Jason Guetzlaff, pro se, appeals a circuit court order that denied Guetzlaff's motion for postconviction relief under WIS. STAT. § 974.06 (2023-24).[1] The circuit court denied Guetzlaff's claims as procedurally barred by ***State v. Escalona-Naranjo***, 185 Wis. 2d 168, 517 N.W.2d 157

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

(1994). 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 summarily affirm.[2]

In May 2016, Guetzlaff plead guilty to and was convicted of repeated sexual assault of a child and sentenced to five years of initial confinement plus ten years of extended supervision. Postconviction counsel was appointed to represent Guetzlaff. However, Guetzlaff filed a pro se motion for sentence modification. Guetzlaff's postconviction counsel moved to withdraw to allow Guetzlaff to pursue his pro se motion. The circuit court held two hearings on the withdrawal motion and then determined that Guetzlaff was knowingly, intelligently, and voluntarily waiving his right to postconviction counsel. The court denied Guetzlaff's pro se motion for sentence modification, and Guetzlaff appealed. On appeal, Guetzlaff did not raise any arguments related to sentence modification, but instead argued ineffective assistance of trial counsel in connection with his plea. We affirmed.

Guetzlaff then filed the WIS. STAT. § 974.06 motion that is the subject of this appeal, alleging ineffective assistance of trial and postconviction counsel. The circuit court denied the motion as procedurally barred under ***Escalona-Naranjo***. Guetzlaff appeals.

Any claim that could have been raised in a prior postconviction motion or on direct appeal cannot form the basis for a claim under WIS. STAT. § 974.06 unless the defendant demonstrates a sufficient reason for failing to raise the claim in the earlier postconviction motion or appeal. ***Escalona-Naranjo***, 185 Wis. 2d at 185. Whether a claim is procedurally barred

[2] Guetzlaff has filed a motion for summary disposition in this court, which asserts the same arguments he makes in his briefs. Because this opinion resolves the merits of the appeal, we need not address Guetzlaff's motion.

presents a question of law that we review de novo. ***State v. Kletzien***, 2011 WI App 22, ¶9, 331 Wis. 2d 640, 794 N.W.2d 920.

Guetzlaff argues that his trial counsel was ineffective by: (1) refusing to represent Guetzlaff at a trial unless Guetzlaff paid her trial fee up front and failing to advise him of his other options for going to trial; (2) failing to provide him with a copy of the victim's videotaped Safe Harbor interview despite his requests to view the video; (3) failing to investigate whether the victim had a history of unfounded allegations of sexual assaults; (4) failing to object to the State's purported breach of the plea agreement; (5) failing to pursue a claim that the State withheld exculpatory evidence in the form of detective's notes of an interview with Guetzlaff; and (6) failing to object to the State's argument at a bail hearing.[3] He argues that he has a sufficient reason for failing to raise those claims in his first appeal and that they are therefore not barred under ***Escalona-Naranjo***. Specifically, Guetzlaff argues that he was unaware of the factual grounds for his current claims, *see* ***State v. Allen***, 2010 WI 89, ¶91, 328 Wis. 2d 1, 786 N.W.2d 124 (a "sufficient reason" can include "ignorance of the facts ... underlying the claim"), and that his postconviction counsel was ineffective for failing to pursue them, *see* ***State v. Balliette***, 2011 WI 79, ¶37, 336 Wis. 2d 358, 805 N.W.2d 334 (ineffective assistance of postconviction counsel may provide a sufficient reason for a defendant's failure to raise a claim in a prior postconviction motion).

[3] Guetzlaff also appears to argue in his brief-in-chief that the circuit court erroneously exercised its discretion at sentencing. However, in his reply brief, Guetzlaff clarifies that he is not attempting to raise a challenge to the court's exercise of its sentencing discretion. We therefore do not address that argument further.

We conclude that Guetzlaff has failed to show a sufficient reason for failing to raise his current claims of ineffective assistance of trial counsel in his first appeal, and that they are therefore barred under ***Escalona-Naranjo***.

First, we conclude that Guetzlaff has not shown that he was unaware of pertinent facts underlying his ineffective assistance of counsel claims at the time of his first appeal. As to Guetzlaff's claims that his trial counsel refused his request to go to trial and failed to explain his options, failed to object to the State's plea agreement breach, and failed to object to the State's argument at a bail hearing, Guetzlaff knew of those facts at the time of his first appeal because he was present for those prior alleged actions by his counsel.

As to the remainder of Guetzlaff's claims, Guetzlaff has not explained why he would not have known of the facts underlying his claims at the time of his first appeal. Guetzlaff does not explain why he would not have previously known about any inadequacy in his counsel's investigation into the victim's history of sexual assault allegations. Nor does he explain why he would not have previously known about any failure by the State to provide trial counsel with the detective's notes of his interview. Guetzlaff knew that the interview occurred because he was present for it, and he asserts in his brief that he reviewed all of the discovery in his trial counsel's file prior to filing his first appeal.

Guetzlaff also does not establish that he could not have previously pursued his claim of ineffective assistance of trial counsel based on counsel's failure to provide him with the Safe Harbor interview video before he entered his plea. Guetzlaff acknowledges that he knew of the Safe Harbor video during the time that the charges were pending against him, and asserts that he was in the process of attempting to obtain the video both before he entered his plea and during

postconviction proceedings. Guetzlaff asserts that he obtained a copy of the video in October 2017, but that he was not able to complete a full review of the video until April 2018, which was about a month after he initiated his direct appeal. Guetzlaff asserts that, when he reviewed the full Safe Harbor video, he learned for the first time that his trial counsel was ineffective by failing to identify a defense based on the contents of the video. Thus, Guetzlaff was aware, during his direct appeal proceedings, of the existence and, ultimately, the content of the Safe Harbor video.

Guetzlaff contends that he was unable to properly raise ineffective assistance of trial counsel based on the contents of the Safe Harbor video because he did not complete his review of the video until his direct appeal was pending. However, despite his acknowledged possession of the Safe Harbor video (that he claims he was not able to initially review), Guetzlaff chose to proceed pro se and chose to file a notice of appeal rather than seek an extension of the time to file a postconviction motion. Accordingly, Guetzlaff has not provided a sufficient reason for failing to properly raise his claims of ineffective assistance of counsel during his first appeal.

To the extent that Guetzlaff contends that he did not understand the legal significance of the facts he asserts, that does not provide a sufficient reason to overcome the procedural bar. *See* ***Allen***, 328 Wis. 2d 1, ¶¶43-44 (unawareness of well-established legal precedent at the time of prior appeal or postconviction motion insufficient to overcome procedural bar).

Second, we conclude that Guetzlaff has failed to establish that ineffective assistance of postconviction counsel is a sufficient reason for failing to pursue his claims of ineffective assistance of trial counsel previously. Guetzlaff waived his right to postconviction counsel and proceeded pro se in his direct appeal. Having waived his right to counsel, Guetzlaff cannot now

argue ineffective assistance of that counsel as the basis for a subsequent postconviction motion. Once Guetzlaff waived his right to postconviction counsel, it was his responsibility to raise and preserve all issues he wished to pursue in postconviction proceedings and on appeal. A defendant who represents himself cannot complain that he was denied the effective assistance of counsel.[4] ***Faretta v. California***, 422 U.S. 806, 834 n.46 (1975).

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

[4] To the extent that Guetzlaff asks this court to exercise its discretionary power of reversal under WIS. STAT. § 752.35, we decline that request. Guetzlaff has not established that this case presents exceptional circumstances warranting the exercise of our discretionary reversal power.