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DISTRICT II

November 5, 2025

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
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Donna R. Matthews #672018
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You are hereby notified that the Court has entered the following opinion and order:

2024AP1586

State of Wisconsin v. Donna R. Matthews (L.C. #2016CF867)

Before Neubauer, P.J., 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).

Donna R. Matthews appeals pro se from orders denying her WIS. STAT. § 974.06 (2023-24)¹ motion and motion for reconsideration.² 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. For the following reasons, we affirm the circuit court's orders denying Matthews's postconviction motions.

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

² Matthews filed a postconviction motion for a new trial on March 17, 2020, which the circuit court denied on March 29, 2021. Matthews filed a pro se motion for reconsideration on May 20, 2024, which the court summarily denied on May 23, 2024.

Matthews killed her ex-boyfriend, whom she contends was abusive towards her, in 2016.³ She entered his home while he was out and shot him upon his return. Her brother supplied her with the gun she used in the killing, and he was charged for his part, separately. He testified against Matthews in her trial. At trial, Matthews claimed self-defense, testifying that the victim stalked her and threatened her. She presented testimony from an expert witness on battered women's syndrome, which was limited in an agreement with the prosecution so as to avoid, upon cross-examination, damaging evidence bearing on Matthews's credibility. The jury convicted Matthews of first-degree intentional homicide by use of a dangerous weapon, contrary to WIS. STAT. §§ 940.01(1)(a) and 939.63(1)(b). She filed a motion for postconviction relief based on ineffective assistance of counsel, which the circuit court denied. She appealed, raising four issues: (1) whether the court violated her rights under the confrontation clause, (2) whether its jury instruction on reasonable doubt was constitutional, (3) whether her trial counsel was ineffective, and (4) whether the appeals court should reverse her conviction because the circuit court did not hear her evidence of self-defense. *State v. Matthews*, No. 2021AP607-CR, unpublished slip op., ¶1 (WI App Oct. 5, 2022). This court affirmed the circuit court's judgment of conviction and denied Matthews's postconviction motion for relief. *Id.*, ¶27.

In this matter, we review Matthews's most recent WIS. STAT. § 974.06 motion arguing for postconviction relief. She makes four claims. Three are issues that were presented in her direct appeal: (1) whether the circuit court violated her rights under the confrontation clause, (2) whether her trial counsel was ineffective, and (3) whether the court should have allowed her

³ The facts of this case were set forth more fully in our prior decision pertaining to Matthews's criminal conviction, in *State v. Matthews*, No. 2021AP607-CR, unpublished slip op., ¶1 (WI App Oct. 5, 2022).

to present self-defense evidence. She newly raises another issue: that the court and prosecution violated her due process rights when the prosecutor argued that Matthews shot the victim in the back. The court denied Matthews's motion after an evidentiary hearing, and it summarily denied Matthews's reconsideration motion.

We need not address the merits of Matthews's claims because we conclude that her four claims are procedurally barred. *See State v. Escalona-Naranjo*, 185 Wis. 2d 168, 173, 517 N.W.2d 157 (1994) and *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991). "Whether a defendant's appeal is procedurally barred is a question of law that we review de novo." *State ex rel. Washington v. State*, 2012 WI App 74, ¶27, 343 Wis. 2d 434, 819 N.W.2d 305.

In Matthews's direct appeal, she made three of the same claims that are now before this court. First, she questioned the circuit court's decision to limit cross-examination of her brother, who cooperated with the prosecution by testifying at her trial, stating this to be a violation of her right to confrontation guaranteed by the Sixth Amendment of the United States Constitution and article I, section 7 of the Wisconsin Constitution, and believing such cross-examination would have exposed his bias. A second claim she made was that her trial counsel was ineffective for foregoing questioning the expert on whether Matthews suffered from battered women's syndrome, in exchange for the prosecution's agreement to not present evidence on cross-examination that would have been damaging to Matthews's credibility. She also claimed that because she was unable to present evidence of her battered woman syndrome self-defense, the court should reverse her conviction. In the postconviction motion before this court, she raises these same three issues. With respect to these three issues Matthews reiterates from her previously litigated postconviction motion, "[a] matter once litigated may not be relitigated in a

subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.” *State v. Witkowski*, 163 Wis. 2d at 990. Thus, Matthews’s reiteration of her previously litigated challenge is to no avail.

With respect to Matthews’s newly raised issue in the postconviction motion before this court, “if the defendant’s grounds for relief have been ... not raised in a prior postconviction motion, they may not become the basis for a [Wis. STAT. §] 974.06 motion.” *Escalona-Naranjo*, 185 Wis. 2d at 181. The plain language of § 974.06 clearly delineates when a postconviction motion under it is appropriate. It states:

All grounds for relief available to a person under this section must be raised in his or her original, supplemental or amended motion. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the person has taken to secure relief may not be the basis for a subsequent motion, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended motion.

Sec. 974.06(4). Thus, as an initial matter, “all grounds for relief ... must be raised in a petitioner’s original, supplemental, or amended motion.” *See Escalona-Naranjo*, 185 Wis. 2d at 181. According to the quoted statute, there is an exception that would allow a new claim in a § 974.06 motion: a movant must assert sufficient reason for the delay in bringing the claim. “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. In Matthews’s direct appeal, Matthews did not make the claim that the circuit court and prosecution violated her due process rights; it is newly presented. Yet, Matthews does not allege any reason for the delay in her presenting her claim of a due process violation to warrant this court’s examination of her claim. We conclude that

because Matthews has not alleged a sufficient reason as to why she did not raise this claim in her direct appeal, her claim of a due process violation is procedurally barred. *See Escalona-Naranjo*, 185 Wis. 2d at 186.

Therefore,

IT IS ORDERED that the orders of the circuit court are summarily affirmed. *See* 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