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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT I

November 25, 2025

To:

Hon. Jeffrey A. Wagner
Circuit Court Judge
Electronic Notice

Sara Lynn Shaeffer
Electronic Notice

Anna Hodges
Clerk of Circuit Court
Milwaukee County Safety Building
Electronic Notice

Alvin James Jemison Jr. 275307
Dodge Correctional Inst.
P.O. Box 700
Waupun, WI 53963

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

2024AP1573

State of Wisconsin v. Alvin James Jemison, Jr.
(L.C. # 2016CF3388)

Before Colón, P.J., Donald, and Geenen, 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).

Alvin James Jemison, Jr., pro se, appeals from the order denying his postconviction motion filed pursuant to WIS. STAT. § 974.06 (2023-24).¹ Based upon our review of the briefs and record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We summarily affirm.

Jemison was convicted in December 2017, after a jury trial, of second-degree sexual assault of an unconscious victim, as a persistent repeater of serious sex crimes. The victim stated

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

she was sleeping when she woke up to someone attempting to have anal intercourse with her. She recognized the perpetrator as Jemison, who she described as a “family friend.” Jemison was also convicted of burglary—home invasion for this incident, as it appeared he had entered the victim’s home through a window.² The circuit court imposed a life sentence without the possibility of extended supervision, as required by statute. *See* WIS. STAT. § 939.62(2m)(b)-(c) (2017-18).

Jemison, by counsel, pursued postconviction relief. He filed a postconviction motion arguing that the circuit court erred in allowing other-acts evidence regarding Jemison’s prior convictions of sexual assault, and that his trial counsel was ineffective for failing to object to the introduction of that other-acts evidence. The circuit court denied the motion.

Jemison appealed, reasserting those claims as well as a claim of insufficiency of the evidence to support the sexual assault conviction. This court affirmed, *see State v. Jemison*, No. 2021AP2207-CR, unpublished slip op. (WI App July 18, 2023), and Jemison’s petition for review by our supreme court was denied.

Jemison subsequently filed the WIS. STAT. § 974.06 postconviction motion underlying this appeal. In that motion, he claimed that there was insufficient evidence to support his burglary conviction. He further claimed that his trial counsel was ineffective in a number of ways that relate to the burglary charge, including: failing to file a motion to dismiss that charge; failing to call forensics investigators as witnesses regarding the lack of fingerprint evidence on

² Jemison admitted to being in the victim’s home and having sex with her, but claimed it was consensual and that he did not break into the house.

the window where it was presumed Jemison entered the victim's home; failing to present a GPS printout prepared by Jemison, based on his monitoring device, regarding the time he arrived at the victim's home on the night of the assault; and failing to object when the prosecutor "change[d] the narrative of the offense" by describing Jemison's entry into the victim's home as through the door rather than a window. Finally, Jemison argued that his postconviction counsel was ineffective for failing to pursue these claims now raised by Jemison. The circuit court denied the motion as procedurally barred. This appeal follows.

We agree that Jemison's claims are procedurally barred. In a motion brought under WIS. STAT. § 974.06, a defendant must demonstrate that there is a "sufficient reason" that the claims in that motion were not raised in a prior motion or direct appeal. *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 185-86, 517 N.W.2d 157 (1994). "Whether a [§] 974.06 motion alleges a sufficient reason for failing to bring available claims earlier is a question of law" that we review de novo. *State v. Romero-Georgana*, 2014 WI 83, ¶30, 360 Wis. 2d 522, 849 N.W.2d 668.

"In some instances, ineffective assistance of postconviction counsel may be a sufficient reason for failing to raise an available claim in an earlier motion or on direct appeal." *Id.*, ¶36. However, "a defendant who alleges in a [WIS. STAT.] § 974.06 motion that his postconviction counsel was ineffective for failing to bring certain viable claims must demonstrate that the claims he wishes to bring are clearly stronger than the claims postconviction counsel actually brought." *Id.*, ¶4. "The 'clearly stronger' standard is appropriate when postconviction counsel raised other issues before the circuit court, thereby making it possible to compare the arguments now proposed against the arguments previously made." *Id.*, ¶46.

In other words, a defendant is precluded from raising any claim in a WIS. STAT. § 974.06 motion if that claim could have been brought on direct appeal, *see Escalona-Naranjo*, 185 Wis. 2d at 185, unless he or she can demonstrate that the claim is “clearly stronger” than the claims appellate counsel previously brought, *see Romero-Georgana*, 360 Wis. 2d 522, ¶4. If the defendant cannot establish that claims brought under § 974.06 are clearly stronger, then the claims are procedurally barred. *Romero-Georgana*, 360 Wis. 2d 522, ¶5.

As the circuit court stated in its order denying Jemison’s WIS. STAT. § 974.06 motion, Jemison does not address the clearly stronger standard in his motion. Rather, Jemison first addresses this standard in his appellate brief. However, our review on appeal is limited to the “four corners” of the postconviction motion. *See State v. Allen*, 2004 WI 106, ¶27, 274 Wis. 2d 568, 682 N.W.2d 433.

Furthermore, even if we were to consider Jemison’s clearly stronger argument in his appellate brief, it is conclusory. The clearly stronger standard is applied by “compar[ing] the arguments now proposed against the arguments previously made” by postconviction counsel. *Romero-Georgana*, 360 Wis. 2d 522, ¶46. In his brief, Jemison states that his current arguments are clearly stronger because he “submitted evidence” of the claims with his motion; namely, police reports relating to the investigation of this incident. Nevertheless, Jemison does not provide an analysis with a comparison to the merits of the claims presented by postconviction counsel. Instead, Jemison merely makes a conclusory statement that this evidence “outweigh[s]” the previous claims. This is insufficient to meet the clearly stronger standard. *See id.*

Finally, Jemison seeks a new trial in the interests of justice. “We may grant a new trial in the interest of justice when it appears from the record that the real controversy has not been fully

tried.” *State v. Williams*, 2006 WI App 212, ¶36, 296 Wis. 2d 834, 723 N.W.2d 719. However, because this reversal power is “formidable,” we utilize it “sparingly and with great caution.” *Id.* We find nothing in the record that would support discretionary reversal. We therefore decline Jemison’s request.

In sum, we conclude that Jemison’s claims are procedurally barred. Accordingly, we affirm the circuit court’s order denying his WIS. STAT. § 974.06 motion without a hearing.

For all the foregoing reasons,

IT IS ORDERED that the order is 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