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DISTRICT I

February 3, 2026

To:

Hon. Anderson M. Gansner
Circuit Court Judge
Electronic Notice

Christine A. Remington
Electronic Notice

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

Jermel A. Robertson 373072
Felmers O. Chaney Correctional Center
2825 North 30th Street
Milwaukee, WI 53210

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

2024AP2157

State of Wisconsin v. Jermel A. Robertson (L.C. # 2014CF2937)

Before White, C.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).

Jermel A. Robertson, pro se, appeals the order denying his postconviction motion filed pursuant to WIS. STAT. § 974.06 (2023-24),¹ challenging the penalty enhancers applied to his sentences. 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.

Robertson was convicted in January 2019 of substantial battery causing bodily harm and disorderly conduct. Both counts included a domestic abuse assessment and habitual criminality

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

repeater enhancers. He pursued an appeal under WIS. STAT. RULE 809.32 (2019-20), where he submitted multiple responses to the no-merit report, raising numerous issues that he contended were meritorious claims. Those issues included a challenge to his sentences, where he argued that the State failed to prove he committed the offenses as a habitual repeater.

After a thorough review of the record and submissions, this court affirmed Robertson's judgment of conviction and relieved his appellate counsel of further representation. *See State v. Robertson*, No. 2020AP581-CRNM, unpublished op. and order (WI App Nov. 16, 2021). We specifically addressed Robertson's claim challenging the repeater enhancer, observing that the State had provided a certified copy of a prior judgment of conviction reflecting that Robertson was previously convicted of a felony in May 2011, and that the circuit court had taken judicial notice of the prior conviction. *Id.* at 15. We therefore concluded that "[f]urther pursuit of this issue would lack arguable merit." *Id.*

Subsequently, Robertson has filed numerous postconviction motions with the circuit court challenging the habitual penalty enhancer.² The circuit court rejected the first of these motions as lacking merit. It then denied all the subsequent motions raising this issue as procedurally barred, including the motion underlying this appeal. In that motion, Robertson again challenged the validity of applying the repeater sentence enhancer based on his prior conviction; he also argued his trial counsel was ineffective for failing to challenge the sentence enhancer. This appeal follows.

² Robertson also filed a supervisory writ of prohibition with this court where he raised a claim relating to the repeater enhancer applied to his sentences. *See State ex rel. Robertson v. Circuit Ct. of Milwaukee Cnty.*, No. 2024AP251-W, unpublished op. and order (WI App Mar. 7, 2024). We rejected that claim as procedurally barred, noting that it had been addressed in his no-merit appeal. *Id.* at 4.

We conclude Robertson’s claims are procedurally barred. “[I]f the defendant’s grounds for relief have been finally adjudicated ... they may not become the basis for a [WIS. STAT. §] 974.06 motion.” *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181, 517 N.W.2d 157 (1994). Furthermore, this procedural bar may be applied when postconviction issues were addressed in the no-merit procedure under WIS. STAT. RULE 809.32, as long as the proper procedure was followed and “carries a sufficient degree of confidence warranting the application of the procedural bar under the particular facts and circumstances of the case.” *State v. Tillman*, 2005 WI App 71, ¶¶19-20, 281 Wis. 2d 157, 696 N.W.2d 574. Whether to apply the procedural bar is a question of law that we review de novo. *Id.*, ¶14.

The challenge to the repeater sentence enhancer was raised by Robertson in his response to the no-merit report filed in his direct appeal. It was fully reviewed during the no-merit procedure, and rejected by this court as lacking merit. *See Robertson*, No. 2020AP581-CRNM at 15. We have full confidence in the no-merit review process undertaken in this matter, and therefore conclude that the procedural bar should be applied to Robertson’s current claim. *See Tillman*, 281 Wis. 2d 157, ¶¶19-20.

Regarding Robertson’s ineffective assistance of counsel claim, this is the same challenge to the repeater enhancer couched in different terms. Therefore, it too is barred. *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.”).

“We need finality in our litigation.” *Escalona-Naranjo*, 185 Wis. 2d at 185. Successive postconviction motions alleging the same claim are not permitted. Accordingly, we affirm the circuit court’s order denying Robertson’s WIS. STAT. § 974.06 motion.

Therefore,

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