



convicted Black as charged. The circuit court sentenced Black to twenty-five years of initial confinement followed by seven years of extended supervision. Black, by postconviction counsel, filed a postconviction motion raising three claims of ineffective assistance of counsel and alleging that the evidence was insufficient to support the conviction. The postconviction court denied the motion. Black appealed and this court affirmed the conviction and the order denying postconviction relief. *See State v. Black*, 2021AP1583-CR, unpublished slip op. (WI App Jan. 4, 2023).

Black then filed a pro se petition with this court pursuant to *State v. Knight*, 168 Wis. 2d 509, 522, 484 N.W.2d 540 (1992), alleging ineffective assistance of appellate counsel and another claim of ineffective assistance of trial counsel. We denied the motion for multiple reasons, including that Black's claims were actually directed to his postconviction counsel's alleged failures and were therefore properly directed to the circuit court.

Black then filed the WIS. STAT. § 974.06 motion underlying this appeal in which he alleged four additional claims of ineffective assistance of trial counsel and four claims of ineffective assistance of postconviction counsel. He also argued that he was entitled to a new trial in the interests of justice.

The postconviction court denied Black's motion without a hearing, finding that his claims were procedurally barred pursuant to *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181, 517 N.W.2d 157 (1994). The court found that Black failed to "engage in a meaningful comparative analysis of his current claims to the claims that postconviction counsel actually raised." This appeal follows.

“Whether a defendant’s postconviction motion alleges sufficient facts to entitle the defendant to a hearing for the relief requested [involves] a mixed standard of review.” *State v. Allen*, 2004 WI 106, ¶9, 274 Wis. 2d 568, 682 N.W.2d 433. Whether a postconviction motion alleges sufficient material facts that, if true, would entitle the defendant to relief is a question of law that we review de novo. *Id.* If the motion alleges sufficient material facts, the circuit court must hold an evidentiary hearing. *Id.* If the motion does not raise these facts, or only presents conclusory allegations, or if the record conclusively demonstrates that the defendant is not entitled to relief, the court has discretion to grant or deny a hearing. *Id.* “We review a circuit court’s discretionary decisions under the deferential erroneous exercise of discretion standard.” *Id.*

In a WIS. STAT. § 974.06 motion, a defendant must raise all grounds for relief in the original, supplemental, or amended motion. *Escalona-Naranjo*, 185 Wis. 2d at 181. “[I]f the defendant’s grounds for relief have been finally adjudicated, waived[,] or not raised in a prior postconviction motion, they may not become the basis for a sec. 974.06 motion.” *Escalona-Naranjo*, 185 Wis. 2d at 181. An exception exists if a defendant is able to provide “a sufficient reason to raise a constitutional issue in a sec. 974.06 motion that could have been raised on direct appeal or in a [WIS. STAT. §] 974.02 motion.” *Escalona-Naranjo*, 185 Wis. 2d at 185. An ineffective assistance of postconviction counsel claim may be a sufficient reason for failing to raise an available claim earlier. *State v. Romero-Georgana*, 2014 WI 83, ¶36, 360 Wis. 2d 522, 849 N.W.2d 668. However, if a defendant alleges that postconviction counsel was ineffective for failing to raise certain issues, the defendant must prove that those issues are “clearly stronger” than the claims postconviction counsel did raise. *Id.*, ¶¶45, 46.

In his WIS. STAT. § 974.06 motion, Black essentially admits to trying to combine his new claims with the claims he previously raised, arguing that the cumulative effect of all of his claims satisfy the clearly stronger argument. Black is mistaken. Black’s motion failed to engage in any sort of coherent “clearly stronger” analysis between his current claims and those previously raised. Consequently, Black has failed to provide a “sufficient reason” to overcome the procedural bar.

For the foregoing reasons, we affirm the order denying Black’s postconviction 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.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*