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**DISTRICT I**

March 24, 2026

To:

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Circuit Court Judge  
Electronic Notice

Daniel J. O'Brien  
Electronic Notice

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

Jason Rovell Dodd 391909  
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Green Bay, WI 54307-9033

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

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2024AP2460-CR

State of Wisconsin v. Jason Rovell Dodd (L.C. # 2012CF472)

Before White, C.J., Colón, P.J., and Geenen, J.

**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 Rovell Dodd, pro se, appeals from an order denying his WIS. STAT. § 974.07 (2023-24) motion for postconviction DNA testing.<sup>1</sup> 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.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

### ***Background***

Following a jury trial, Dodd was convicted of armed robbery with threat of force as a party to a crime for his role in the robbery of an auto parts store in April of 2011. The circuit court denied his WIS. STAT. RULE 809.30 postconviction motion, and Dodd filed a direct appeal. We affirmed. *State v. Dodd*, No. 2015AP1400, unpublished slip op., ¶1 (WI App Nov. 29, 2016). The Wisconsin Supreme Court denied review.

In our decision, we provided the following background information:

According to the trial testimony, a man entered the auto parts store wearing latex gloves and sunglasses. He was armed with a gun and demanded money. Two employees of the store, J.S. and H.P., were present at the time. The incident was captured on video.

J.S. and H.P. testified that the man who robbed the store fled in a green SUV waiting outside. J.S. was able to write down the license plate number along with the make and model.

Police subsequently stopped a green SUV based on the identifying information provided by J.S. They arrested the driver, Robert Jackson.

A consent search of Jackson's cell phone showed contact information for "Jason." At trial, the State was able to connect Dodd to the cell phone number that appeared on Jackson's phone and presented evidence that there were a multitude of calls between Dodd and Jackson before the robbery but not during the time captured on the store's security cameras.

H.P. testified that he found gloves on the floor behind the counter at the store immediately after the robber left. The gloves appeared to be the same as the ones the robber had been wearing. H.P. picked up the gloves and placed them in the garbage. Later, H.P. saw police remove the gloves from the garbage.

Dodd was identified when the gloves left at the store revealed his DNA. In a police photo array, J.S. identified Dodd as the man wearing sunglasses who robbed him. J.S. also identified Dodd at trial as the person responsible for the crime.

Following his conviction, Dodd was sentenced to twelve years of initial confinement and eight years of extended supervision. His motion for postconviction relief was denied.

*Id.*, ¶¶3-9 (footnote omitted).

In 2024, more than a decade after his jury trial, Dodd, by counsel, filed a motion for postconviction DNA testing of the gloves that were found at the auto parts store and introduced as evidence at trial. Dodd argued that the gloves found at the auto parts store did not match the description of the gloves tested by the Wisconsin State Crime Laboratory. He claimed this was significant in that the gloves sent to the crime lab for testing could have been gloves from Jackson's vehicle.

Following briefing, the circuit court denied the motion. The court explained:

[E]xculpatory DNA results on the gloves—gloves recovered at the scene of the crime or from Jackson's vehicle, as posited by the defense—simply do not undermine the reasonable probability that [Dodd] would have been prosecuted and convicted on the strength of the State's other evidence against him. Neither the prosecution nor the conviction hinged on the gloves.

*See* WIS. STAT. § 974.07(7)(a)2. This appeal follows.

### ***Discussion***

We begin by stating that contrary to Dodd's assertions, the State did not concede any arguments on appeal. Specifically, the State did not concede that the gloves presented at Dodd's trial were not the same gloves that were sent to the Wisconsin State Crime Lab. The State argued below, as it does here, that Dodd failed to prove any ground for DNA testing under WIS. STAT. § 974.07.

In addition, Dodd’s argument that the circuit court abandoned its neutrality and became an advocate for the State also fails. Dodd is simply dissatisfied with the outcome in the circuit court. In any event, it is well established that a respondent may raise any argument that supports the circuit court ruling—even on a theory or reasoning not presented below—and that this court can affirm on any grounds that support the result reached by the circuit court. *State v. Holt*, 128 Wis. 2d 110, 124-25, 382 N.W.2d 679 (Ct. App. 1985), *superseded by statute on other grounds*, WIS. STAT. § 940.225(7).

The sole issue on appeal is whether Dodd is entitled to DNA testing under WIS. STAT. § 974.07. Dodd continues to argue that the latex gloves that were sent to the crime lab for testing were not the gloves that were presented as evidence at trial. He claims he was convicted based on fabricated evidence. Specifically, he contends that latex gloves were found inside Jackson’s vehicle and those were the gloves that were sent to the crime lab. To explain the presence of his DNA on those gloves, Dodd references his trial testimony that he may have touched gloves that were in Jackson’s vehicle a couple of weeks before the robbery. He testified that he reached into the glove compartment of Jackson’s vehicle to look for a DVD.

Dodd’s current claims are barred by the holding in *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991), that “[a] matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.” By using WIS. STAT. § 974.07, Dodd is doing exactly what *Witkowski* prohibits: artfully repackaging a previously litigated claim to get another bite at the apple.

On direct appeal, among other things, Dodd argued that the State withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). *Dodd*, No. 2015AP1400, ¶¶11,

14. Dodd claimed the State failed to turn over reports detailing items retrieved during the search of Jackson's vehicle. *Id.*, ¶15.

As explained in our decision, Dodd's claim on direct appeal was based on one police officer's testimony that *he was told* gloves were found inside Jackson's SUV even though the officer who searched Jackson's vehicle testified that nothing of exculpatory value was found in it. *Id.*, ¶¶16-18. In rejecting Dodd's claim, we explained that "[t]here is no indication that anything of note was discovered in [Jackson's vehicle] .... Speculation is insufficient to support a claimed *Brady* violation." *Dodd*, No. 2015AP1400, ¶20.

In the present appeal, Dodd again offers little more than speculation to support his theory that exculpatory latex gloves were found inside Jackson's vehicle and those were the gloves that were sent to the crime lab. Dodd's attempt to put a new label on an old claim is not allowed.

To the extent that Dodd seeks to bolster his claim by emphasizing a discrepancy in the description of the gloves found at the scene, his efforts fall short. Dodd raised a similar claim on direct review, where we noted:

[Dodd] emphasizes the varying descriptions of the latex gloves that were found at the auto parts store—cream colored with dirt on the exterior or white and whether they were inside out. According to Dodd, there is strong evidence to suggest that the gloves that were tested at the crime lab were not the same ones that were found at the auto parts store.

*Id.*, ¶23 n.6.

Dodd previously argued that his trial counsel was ineffective for failing to explore the differing descriptions as to the color of the gloves. *Id.*, ¶52. In rejecting this argument, we explained:

First, the gloves were authenticated by multiple witnesses and processes before the jury, and there would be no benefit to emphasizing the slightly varying descriptions. Second, regarding the inside-out/outside-in nature of the gloves, as previously set forth in this decision, the chain-of-custody related to the gloves was established, and [a DNA analyst with the Wisconsin State Crime Lab] testified that she swabbed all parts of the gloves, not just one side or the other.

*Id.*

We concluded: “Dodd’s trial counsel did not perform deficiently in failing to explore the slightly differing descriptions as to the color of the gloves.” *Id.* We also held that Dodd failed to prove prejudice because there was no reasonable probability of a different outcome had counsel “explored these minor inconsistencies.” *Id.*, ¶53. Dodd cannot repackage his claim by now arguing that he is entitled to retesting under WIS. STAT. § 974.07 because of the slight discrepancy in the descriptions of the gloves. *See Witkowski*, 163 Wis. 2d at 990-92.

Insofar as Dodd’s present appeal implicates the chain of custody for the latex gloves, that issue too was previously addressed. *Dodd*, No. 2015AP1400, ¶¶31-35. We have already explained that there was “no showing that the gloves were contaminated or tampered with in any way.” *Id.*, ¶35.

In a last-ditch effort to save his appeal, Dodd seeks a new trial in the interest of justice under WIS. STAT. § 752.35. This, however, is not an exceptional case warranting discretionary reversal. *See State v. Schutte*, 2006 WI App 135, ¶62, 295 Wis. 2d 256, 720 N.W.2d 469 (“We exercise our authority to reverse in the interest of justice under [] § 752.35 sparingly and only in the most exceptional cases.”).

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*