OFFICE OF THE CLERK
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 II

April 1, 2026

To:

Hon. J. Arthur Melvin III
Circuit Court Judge
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Christine A. Remington
Electronic Notice

Ronald W. Wolfe, #131124
Jackson Correctional Inst.
P.O. Box 233
Black River Falls, WI 54615-0233

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

2024AP1131-CR State of Wisconsin v. Ronald W. Wolfe (L.C. #2000CF877)

Before Neubauer, P.J., Gundrum, and Grogan, 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).

Ronald W. Wolfe, pro se, appeals from a postconviction order denying his WIS. STAT. § 974.07 (2023-24)[1] motion seeking DNA testing on a single hair found on the murder victim during the autopsy. He also appeals from the order denying his motion for reconsideration of the circuit court's DNA testing decision. 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 affirm. Also, as explained below, we impose ***Casteel*** sanctions on Wolfe. *See* ***State v. Casteel***, 2001 WI App 188, ¶23, 247 Wis. 2d 451, 634 N.W.2d 338.

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

Wolfe has appealed his 2001 homicide conviction, which is the subject of this appeal, to us before. We affirmed his judgment and postconviction order in his direct appeal, *see* ***State v. Wolfe***, No. 2002AP3076-CR, unpublished slip op. (WI App Nov. 5, 2003), and we affirmed when he appealed from orders denying his prior WIS. STAT. §§ 974.06 and 974.07 postconviction motions, *see* ***State v. Wolfe***, No. 2018AP15, unpublished op. and order (WI App Sept. 23, 2020). In our 2018AP15 decision, we noted that Wolfe had also filed an unsuccessful ***Knight***[2] petition and multiple unsuccessful § 974.06 postconviction motions in the circuit court.

The facts surrounding Wolfe's homicide conviction have been set forth in our prior decisions and will not be repeated at length here. In sum, Wolfe stabbed his friend during a disagreement and did not seek medical help for him. After passing out, Wolfe woke up approximately twelve hours later, discovered his friend had died, and then stole his wallet or credit cards and fled. The evidence against Wolfe—which included his bloody handprint and bloody footprints at the scene, his fingerprint on a bottle near the body, and his jacket with the victim's blood on it near the victim's home—was overwhelming. Wolfe claimed he killed the victim in self-defense. The jury rejected his self-defense claim and convicted Wolfe of first-degree intentional homicide, misdemeanor bail-jumping, and theft, all as a habitual offender.

This appeal stems from another postconviction motion Wolfe filed in 2024 seeking DNA testing (at public expense)[3] of a single hair found on the victim's body during the autopsy.

[2] ***State v. Knight***, 168 Wis. 2d 509, 484 N.W.2d 540 (1992).

[3] Although Wolfe indicates in his appellate briefing that "he is … willing to pay for the DNA testing with the help of family and friends[,]" this "offer" does not alter our analysis.

Wolfe claimed that this hair, which was not the victim's, would prove that a third person was at the scene. The circuit court denied the motion, concluding that Wolfe failed to satisfy the criteria WIS. STAT. § 974.07 requires. It reasoned that even if a third person had been at the scene, it would not have changed the outcome of the trial.

The issue on appeal is whether Wolfe has a right to postconviction DNA testing under WIS. STAT. § 974.07. Our review is limited to determining whether the circuit court erroneously exercised its discretion when it concluded the DNA testing Wolfe requested would not create a "reasonable probability" of a different outcome. *See* ***State v. Hudson***, 2004 WI App 99, ¶16, 273 Wis. 2d 707, 681 N.W.2d 316. The circuit court properly exercises its discretion when it relies on the pertinent facts and applies "the applicable law to reach a reasonable decision." ***Id.***

In order to obtain the DNA testing at public expense that Wolfe requests, he must satisfy the specific statutory criteria set forth in WIS. STAT. § 974.07(7)(a) or (b).[4] *See* ***State v. Denny***,

[4] WISCONSIN. STAT. § 974.07(7)(a) and (b) provide as relevant:

> **(7)(a)** A court in which a motion under sub. (2) is filed shall order forensic deoxyribonucleic acid testing if all of the following apply:
>
> **1.** The movant claims that he or she is innocent of the offense at issue in the motion under sub. (2).
>
> **2.** It is reasonably probable that the movant would not have been prosecuted [or] convicted … for the offense at issue in the motion under sub. (2), if exculpatory deoxyribonucleic acid testing results had been available before the prosecution [or] conviction … for the offense.
>
> **3.** The evidence to be tested meets the conditions under sub. (2)(a) to (c).

(continued)

2017 WI 17, ¶71, 373 Wis. 2d 390, 891 N.W.2d 144. As applied to this case, Wolfe must demonstrate either that it was "reasonably probable that [he] would not have been prosecuted [or] convicted" if the DNA results from this single hair had been available, *see* § 974.07(7)(a)2, at which point the circuit court would be required to order postconviction DNA testing, *or* that it was reasonably probable that this specific DNA testing, had it been done prior to Wolfe's conviction, would have changed the outcome, *see* § 974.07(7)(b)1, at which point the circuit court would have discretion to order postconviction DNA testing.

Wolfe has not established it is "reasonably probable that [he] would not have been prosecuted[or] convicted" at all had the DNA testing occurred prior to trial. *See* WIS. STAT. § 974.07(7)(a)2. He has likewise failed to show that the circuit court erroneously exercised its discretion in deciding that the DNA testing of this hair would not have changed the outcome as

---

> **4.** The chain of custody of the evidence to be tested establishes that the evidence has not been tampered with, replaced, or altered in any material respect or, if the chain of custody does not establish the integrity of the evidence, the testing itself can establish the integrity of the evidence.
>
> **(b)** A court in which a motion under sub. (2) is filed may order forensic deoxyribonucleic acid testing if all of the following apply:
>
> **1.** It is reasonably probable that the outcome of the proceedings that resulted in the conviction … would have been more favorable to the movant if the results of deoxyribonucleic acid testing had been available before he or she was prosecuted [or] convicted[.]
>
> **2.** The evidence to be tested meets the conditions under sub. (2)(a) to (c).
>
> **3.** The chain of custody of the evidence to be tested establishes that the evidence has not been tampered with, replaced, or altered in any material respect or, if the chain of custody does not establish the integrity of the evidence, the testing itself can establish the integrity of the evidence.

he has not demonstrated how the testing would have resulted in a more favorable verdict. *See* § 974.07(7)(b)1. Not only has he failed to show when (or how) the single hair got onto the victim, he has also failed to show how a third person being present would have convinced the jury he acted in self-defense when he stabbed the victim or how testing the hair would have somehow mitigated the overwhelming evidence against him. Accordingly, we hold the circuit court did not erroneously exercise its discretion when it concluded Wolfe failed to satisfy the statutory criteria to obtain DNA testing.[5]

Further, in our ***Wolfe***, No. 2018AP15, decision rejecting Wolfe's appeal of orders denying his WIS. STAT. §§ 974.06 and 974.07 motions, we warned him that if he continues to litigate frivolous claims, we may impose ***Casteel*** sanctions. *See* ***Casteel***, 247 Wis. 2d 451, ¶¶25-26 (where appellant filed a frivolous appeal after being warned further frivolous litigation would result in sanctions, it was proper for this court to require that future filings be accompanied by an affidavit explaining why the appeal was not frivolous and to refuse to accept any filing deemed to be frivolous). The State requests we impose these sanctions. It notes "[t]his appeal is from Wolfe's second failed WIS. STAT. § 974.07 motion and his sixth overall attempt to overturn his 2001 convictions." It acknowledges that although Wolfe's "current claim

[5] We are further not persuaded by Wolfe's assertions that the circuit court did not use the right words in denying his motion. Specifically, Wolfe points to the court's decision indicating that testing would not change the "nature of the case" or "nature of the defense" and did not specifically use the words "reasonable probability" of a different outcome. The court's decision specifically states that: Wolfe "has not provided a reason to the court as to how a DNA test of the hair found at the scene *would change the results of a trial* where the defendant alleges self-defense." (Emphasis added.) Although, it would have been best for the court to say there is no *reasonable probability* that the testing would change the outcome, which is the language used in WIS. STAT. § 974.07(7), we are satisfied the court applied the correct legal standard in denying Wolfe's motion even if it did not use the "magic words." *See* ***State v. Lepsch***, 2017 WI 27, ¶36, 374 Wis. 2d 98, 892 N.W.2d 682 ("[A] circuit court need not use or obtain any magic words in determining whether [a] requirement has been met.").

is not identical to claims Wolfe has previously litigated, Wolfe continues to challenge the foundation of his conviction in these pro se filings." The State also indicates that Wolfe's framing of the issue here as a § 974.07 motion was a creative way to avoid the § 974.06 procedural bar—that he is relitigating the same issues over and over. The State's contention is evident to this court by Wolfe's own words in his Reply brief, wherein he continues to assert his trial counsel was ineffective despite ineffective assistance being raised and rejected in his direct appeal and being raised and rejected as procedurally barred in his § 974.06 appeal. Accordingly, we agree with the State and will impose ***Casteel*** sanctions as follows.

Wolfe is prohibited from making further filings unless he first submits an affidavit attesting to the existence of novel grounds upon which those filings are based and explaining why ***Escalona-Naranjo*** does not bar any newly presented claims. *See* ***State v. Escalona-Naranjo***, 185 Wis. 2d 168, 184-86, 517 N.W.2d 157 (1994). He must also first pay any associated filing fees. Wolfe "'fails to understand that he does not have an unlimited right to file successive appeals for relief.'" *See* ***Casteel***, 247 Wis. 2d 451, ¶20 (quoted source omitted). "We need finality in our litigation." ***Escalona-Naranjo***, 185 Wis. 2d at 185.

We also warn Wolfe that continued filings may result in additional sanctions permitted in bringing frivolous appeals in the future, including the imposition of costs, fees, and reasonable attorneys' fees. *See* WIS. STAT. RULE 809.25(3); *accord* WIS. STAT. RULE 809.103(3) (authorizing imposing sanctions on prisoners who engage in frivolous litigation with "the full filing fee" for the appeal).

Therefore,

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to 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