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DISTRICT I

September 9, 2026

To:

Hon. Jack L. Davila
Circuit Court Judge
Electronic Notice

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

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Sturtevant, WI 53177-1829

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

2025AP683

State of Wisconsin v. Antowine Mitchell (L.C. # 2018CF3584)

Before Donald, 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).

Antowine Mitchell appeals from an order denying his postconviction motion for relief. 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 (2023-24).¹

This is not the first time this matter has been before us. In 2023, this court upheld the judgment convicting Mitchell of multiple crimes related to an armed robbery. *State v. Mitchell*, No. 2022AP2009-CR, unpublished op. and order (WI App Dec. 27, 2023). On appeal, Mitchell

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

argued that he was entitled to a new trial because the trial court erroneously denied his motion to suppress statements made to police during two recorded interviews. He also argued that he was entitled to a new trial in the interest of justice because identification testimony from one of the victims was prejudicial. We rejected his arguments.

Mitchell then filed a postconviction motion pursuant to Wis. STAT. § 974.06, arguing that the trial court improperly admitted the victim's identification testimony, that trial counsel was ineffective for failing to challenge the admission, and that his right to a speedy trial was violated. The postconviction court denied the motion without a hearing, finding that Mitchell's claims were procedurally barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). This appeal follows.

On appeal, Mitchell renews the arguments made in his postconviction motion. He also claims that the trial court erred when it did not suppress statements he made to police during his first two interviews.

Whether the record conclusively demonstrates that a defendant is not entitled to the relief sought in a postconviction motion presents an issue of law that this court reviews de novo. *State v. Sulla*, 2016 WI 46, ¶23, 369 Wis. 2d 225, 880 N.W.2d 659. If the record conclusively shows that a defendant is not entitled to relief, we review a postconviction court's decision to deny the motion without a hearing under the erroneous exercise of discretion standard. *Id.* "A [postconviction] court properly exercises its discretion when it has examined the relevant facts, applied the proper legal standards, and engaged in a rational decision-making process." *Id.* (quoting *State v. Bentley*, 201 Wis. 2d 303, 318, 548 N.W.2d 50 (1996)).

Here, the record shows that the claims Mitchell raised in his postconviction motion are procedurally barred. Any issue which either was or could have been raised in a direct appeal cannot be the basis for a subsequent postconviction motion under WIS. STAT. § 974.06, unless there was a sufficient reason for failing to raise the issue earlier. *Escalona-Naranjo*, 185 Wis. 2d at 185. Mitchell’s motion did not allege a cognizable sufficient reason for failing to previously raise these issues in his appellate proceedings. Therefore, the postconviction court did not erroneously exercise its discretion in denying the motion without a hearing. See *Sulla*, 369 Wis. 2d 225, ¶23.

As to Mitchell’s claim that the trial court erred when it did not suppress statements he made during his first two police interviews, we note that Mitchell did not raise this argument in the postconviction motion underlying this appeal. We typically do not decide issues raised for the first time on appeal. See *State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727. Moreover, we already addressed the suppression issue in Mitchell’s *previous* appeal to this court. “A matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.” *State v. Witkowski*, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991). We decline to address this issue further.

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