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DISTRICT II

April 24, 2024

To:

Hon. Eugene A. Gasiorkiewicz
Circuit Court Judge
Electronic Notice

Jacob J. Wittwer
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Cristian M. Loga-Negru, #00647656
Racine Correctional Inst.
P.O. Box 900
Sturtevant, WI 53177-0900

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

2023AP111-CR

State of Wisconsin v. Cristian M. Loga-Negru (L.C. #2014CF1626)

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

Cristian M. Loga-Negru appeals pro se from WIS. STAT. § 974.06 (2021-22)¹ orders denying his postconviction motions. Loga-Negru's brief is difficult to decipher. As best we can tell, he is claiming: (1) he is entitled to plea withdrawal; (2) he received ineffective assistance of counsel; and (3) he never waived his right to counsel. 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.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

In November 2014, the State charged Loga-Negru with three crimes after he killed his estranged wife: (1) first-degree intentional homicide, use of a dangerous weapon, domestic abuse assessments; (2) mayhem, domestic abuse assessments; and (3) kidnapping, domestic abuse assessments. Although Loga-Negru initially entered a plea of not guilty by reason of mental disease or defect (NGI), in May 2016, he entered into a plea bargain wherein he agreed to plead no contest to the charge of first-degree intentional homicide for the first (guilt) phase of the NGI trial.² In exchange for his plea, the State dismissed the mayhem and kidnapping charges. At the second (responsibility) phase of the NGI trial in July 2016, the circuit court found the State’s expert more credible and concluded that Loga-Negru failed to meet his burden to support his NGI plea. The court sentenced Loga-Negru to life imprisonment with the possibility of extended supervision after thirty years.

After sentencing, Loga-Negru chose to proceed pro se and filed several postconviction motions, which the circuit court denied. He filed a direct appeal pro se and raised multiple claims, including: (1) a challenge relating to his competency; (2) that he received ineffective assistance of counsel; (3) that he had the right to counsel; (4) there was an alleged *Brady v. Maryland*, 373 U.S. 83 (1963) violation; (5) he is entitled to plea withdrawal; and (6) the prosecutor engaged in misconduct. We rejected all of his claims in a July 2021 per curiam opinion. See *State v. Loga-Negru*, No. 2019AP1023-CR, unpublished slip op. (WI App July 14, 2021).

² “NGI pleas are ‘bifurcated into two phases: the guilt phase and the responsibility phase.’” *State v. Yakich*, 2022 WI 8, ¶7 n.6, 400 Wis. 2d 549, 970 N.W.2d 12 (quoting *State v. Fugere*, 2019 WI 33, ¶¶26-27, 386 Wis. 2d 76, 924 N.W.2d 469).

Between September 2022 and February 2023, Loga-Negru filed a number of WIS. STAT. § 974.06 postconviction motions. In September 2022, he filed a motion titled “Postconviction Motion Concerning Jurisdiction Over the Defendant and the Legality of His Custody[.]”³ He argued: (1) the criminal complaint lacked sufficient allegations to confer jurisdiction over him; and (2) the circuit court lost jurisdiction over him by failing to hold a timely bail hearing. The circuit court denied Loga-Negru’s motion.

In November 2022, Loga-Negru filed a motion to withdraw his plea based on newly discovered evidence and ineffective assistance of counsel. He claimed: (1) his postconviction counsel, who withdrew at Loga-Negru’s request because Loga-Negru wanted to proceed pro se, provided ineffective assistance for failing to conduct a sufficient investigation; and (2) newly discovered evidence about statements from the victim’s co-workers about the victim being fearful of Loga-Negru was exculpatory. The circuit court denied the motion.

In December 2022, Loga-Negru filed a motion in the circuit court requesting DNA testing of the hatchet used in the homicide. The court denied the motion. In January 2023, Loga-Negru filed a motion asking the court to reconsider its order denying his motion seeking plea withdrawal. The court denied the motion.

In February 2023, Loga-Negru filed a motion in the circuit court seeking postconviction discovery related to the victim’s business dealings and finances. The court denied the motion.

³ This motion was filed, withdrawn, and then refiled.

Loga-Negru filed notices of appeal from these orders denying his motions, and we deemed his notices timely. We determined that Loga-Negru’s challenges to these orders would proceed together in this appeal.

Loga-Negru’s pro se briefs are difficult to decipher. As noted, his main points seem to be arguing that he is entitled to plea withdrawal, that he received ineffective assistance of counsel, and that he never waived his right to counsel. The State responds that Loga-Negru’s claims are all procedurally barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), are insufficiently developed, or have been forfeited. We agree with the State.

“We need finality in our litigation.” *Id.* at 185. Therefore, any claim that could have been raised in a prior postconviction motion or on direct appeal cannot form the basis for a subsequent motion under WIS. STAT. § 974.06 unless the defendant demonstrates a sufficient reason for failing to raise the claim earlier. *Escalona-Naranjo*, 185 Wis.2d at 185. Furthermore, the defendant may not relitigate a matter previously litigated “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).

Whether a defendant’s claim is procedurally barred and whether a sufficient reason exists for the failure to previously assert the claim present questions of law we review de novo. *State v. Kletzien*, 2011 WI App 22, ¶¶9, 16, 331 Wis. 2d 640, 794 N.W.2d 920.

Applying these principles to the case at hand, we conclude that Loga-Negru’s postconviction motions are procedurally barred. Loga-Negru raises claims in his postconviction motions that he either already raised or could have raised previously. As noted, we previously

rejected Loga-Negru’s claims of ineffective assistance and plea withdrawal in our 2021 per curiam decision.

To the extent Loga-Negru asserts different claims from those previously raised, he is required to allege a sufficient reason as to why he did not raise these claims in his prior appeal. See *Escalona-Naranjo*, 185 Wis. 2d at 185. Loga-Negru’s brief, however, fails to assert any reason, let alone a sufficient reason, for failing to raise any new claims.

Moreover, Loga-Negru’s brief makes incoherent arguments that are not adequately developed and fail to apply the legal authorities he cites to the facts of the case. Appellate rules require arguments to be supported by “citations to the authorities, statutes *and parts of the record*[.]” WIS. STAT. RULE 809.19(1)(e) (emphasis added). Although Loga-Negru is representing himself in this appeal, his briefs must still comply with these procedural requirements. See *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). It is not our responsibility to develop arguments for a party, and we are not required to address arguments that are undeveloped or not supported by citations to the record. See *Doe I v. Madison Metro. Sch. Dist.*, 2022 WI 65, ¶35, 403 Wis. 2d 369, 976 N.W.2d 584 (appellate courts “do not step out of our neutral role to develop or construct arguments for parties” (citation omitted)); *Madely v. RadioShack Corp.*, 2007 WI App 244, ¶14 n.7, 306 Wis. 2d 312,

742 N.W.2d 559 (“[W]e have no duty to scour the record to review arguments unaccompanied by adequate record citations.”).⁴

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

⁴ We further note that Loga-Negru forfeited all nonjurisdictional claims when he entered his no contest plea. See *State v. Kelty*, 2006 WI 101, ¶18 & n.11, 294 Wis. 2d 62, 716 N.W.2d 886 (guilty plea waiver rule); *State v. Lasky*, 2002 WI App 126, ¶11, 254 Wis. 2d 789, 646 N.W.2d 53 (“[A] ... no contest plea waives all nonjurisdictional defects and defenses[.]”). And, as the State points out, Loga-Negru abandoned the two jurisdictional claims he raised in the circuit court by failing to raise them in his opening brief. See *A.O. Smith Corp. v. Allstate Ins. Cos.*, 222 Wis. 2d 475, 493, 588 N.W.2d 285 (Ct. App. 1998).