



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](http://www.wicourts.gov)

**DISTRICT I**

November 12, 2024

To:

Hon. Janet C. Protasiewicz  
Supreme Court Justice  
Electronic Notice

Nicholas DeSantis  
Electronic Notice

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

Dvonta P. Ames 583929  
Columbia Corr. Inst.  
P.O. Box 900  
Portage, WI 53901-0900

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

---

2023AP1918

State of Wisconsin v. Dvonta P. Ames (L.C. # 2016CF5229)

Before White, C.J., Donald, P.J., and Colón, 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).**

Dvonta P. Ames, *pro se*, appeals an order denying his WIS. STAT. § 974.06 (2021-22)<sup>1</sup> motion. 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.

Ames was convicted of one count of possession of a firearm by a felon and one count of cocaine possession with intent to deliver as a second or subsequent offense. Following his conviction, appointed counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32. Ames

---

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

responded to the no-merit report, raising multiple arguments, including a claim that he had newly discovered evidence in the form of an affidavit from his brother, Deonta Ames, in which Deonta stated that Ames did not have “any knowledge or possession of the gun” that formed the basis of the felon in possession charge. Upon an independent review of the record, we affirmed Ames’s conviction. *See State v. Ames*, No. 2019AP1442-CRNM, unpublished slip op. and order (WI App July 19, 2022).

Ames then filed the WIS. STAT. § 974.06 motion that underlies this appeal. Ames argued that his postconviction counsel was ineffective for not raising an ineffective assistance of trial counsel claim based on trial counsel’s failure to investigate Deonta’s connection to the gun. The circuit court denied the motion as procedurally barred under *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994), because Ames failed to raise the issue in his no-merit response. The circuit court also found that Ames was merely attempting to “repackage” the newly discovered evidence claim he raised in response to the no-merit report. This appeal follows.

We agree with the circuit court that Ames’s claim is procedurally barred under *Escalona-Naranjo*. Successive motions and appeals are procedurally barred unless the defendant can show a sufficient reason why the newly alleged errors were not previously raised. *Id.* at 185. We determine the sufficiency of a defendant’s reason for circumventing *Escalona-Naranjo*’s procedural bar by examining the “four corners” of the subject postconviction motion. *See State v. John Allen*, 2004 WI 106, ¶¶23, 27, 274 Wis. 2d 568, 682 N.W.2d 433. The bar to serial litigation may also be applied to a defendant whose direct appeal was processed under the no-merit procedures set forth in WIS. STAT. RULE 809.32, as long as the no-merit procedures were in fact followed and the record demonstrates a sufficient degree of confidence in the result. *See*

*State v. Tillman*, 2005 WI App 71, ¶¶19-20, 281 Wis. 2d 157, 696 N.W.2d 574; *see also State v. Aaron Allen*, 2010 WI 89, ¶¶35-41, 328 Wis. 2d 1, 786 N.W.2d 124.

Ames contends that ineffective assistance of postconviction counsel was a “sufficient reason” for overcoming the *Escalona-Naranjo* bar. However, Ames’s argument fails to address how *his own failure* to raise the issue in response to the no-merit report is postconviction counsel’s fault. *See Tillman*, 281 Wis. 2d 157, ¶¶17-19 (explaining that a defendant may waive issues by failing to raise them in a response to a no-merit report). Moreover, despite Ames’s claim that this court “dropped the ball” in rejecting his newly discovered evidence argument, Ames has not demonstrated that his no-merit appeal was procedurally inadequate. This court independently reviewed the record and assessed Ames’s claims. Our resolution of the no-merit proceeding carries a sufficient degree of confidence warranting application of the procedural bar.<sup>2</sup>

For all the foregoing reasons,

IT IS ORDERED that the judgment 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

---

<sup>2</sup> To the extent we do not address issues or arguments that Ames intended to raise, we conclude that such issues or arguments are either insufficiently developed or conclusory. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).