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DISTRICT IV

January 16, 2025

To:

Hon. W. Andrew Voigt
Circuit Court Judge
Electronic Notice

Donald V. Latorraca
Electronic Notice

Julie Kayartz
Clerk of Circuit Court
Columbia County Courthouse
Electronic Notice

Stanley J. Maday, Jr.
Mike Durfee State Prison
1412 Wood Street
Springfield, SD 57062

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

2023AP1303

State of Wisconsin v. Stanley J. Maday, Jr. (L.C.# 2011CF442)

Before Kloppenburg, P.J., Blanchard, and Graham, 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).

Stanley Maday, Jr., pro se, appeals a circuit court order denying his postconviction motion brought under WIS. STAT. § 974.06 (2021-22).¹ Based on our review of the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1). We affirm on the ground that Maday's motion is procedurally barred.

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

In 2013, Maday was convicted of multiple counts of sexual assault of a child. We reversed the convictions in Maday’s direct appeal. *See State v. Maday*, No. 2015AP366-CR, unpublished slip op. ¶21 (WI App Oct. 29, 2015). The supreme court then reversed our decision, thereby upholding Maday’s convictions. *See State v. Maday*, 2017 WI 28, ¶¶1, 5, 374 Wis. 2d 164, 892 N.W.2d 611.

In a subsequent appeal, Maday argued that the supreme court’s decision changed the law relating to expert testimony and that his conviction should therefore be reversed as an ex post facto violation. *See State v. Maday*, No. 2019AP1447, unpublished slip op. ¶24 (WI App Jan. 28, 2021). We rejected this argument as insufficiently developed. *Id.*

In Maday’s current postconviction motion under WIS. STAT. § 974.06, he again argued that the supreme court’s decision resulted in an ex post facto violation. The circuit court denied the motion on the primary ground that it lacked the authority to declare that the supreme court’s decision violated Maday’s rights.

Maday argues that the circuit court’s reasoning for denying his postconviction motion is flawed.² The State, rather than address the merits of the motion, contends that the motion is procedurally barred on multiple grounds. The State provides copies of state and federal decisions showing that Maday has engaged in repeated, unsuccessful attempts to litigate his ex post facto claim since the time that this court initially rejected it. In reply, Maday points out that the circuit court did not rely on a procedural bar to deny his motion.

² Maday also appears to argue that the circuit court erred by failing to appoint counsel. This argument is not developed, and we reject it on that basis. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992).

Whether a postconviction motion is procedurally barred is a question of law that we decide de novo. *State v. Thames*, 2005 WI App 101, ¶10, 281 Wis. 2d 772, 700 N.W.2d 285. In this case, we agree with the State that Maday’s motion is barred on one or more procedural grounds, and we rely in particular on the procedural bar set forth in *State v. Witkowski*, 163 Wis. 2d 985, 473 N.W.2d 512 (Ct. App. 1991).

Under *Witkowski*, “[a] matter once litigated may not be relitigated in a subsequent postconviction proceeding no matter how artfully the defendant may rephrase the issue.” *See id.* at 990. Here, Maday’s postconviction motion is an attempt to relitigate the same ex post facto claim that he unsuccessfully litigated in previous proceedings, including the appeal in this court in which we initially rejected the claim. *See Maday*, No. 2019AP1447, unpublished slip op. ¶24. Although the circuit court denied Maday’s motion for reasons other than a procedural bar, we may affirm the circuit court on alternative grounds. *See Thames*, 281 Wis. 2d 772, ¶10; *Glendenning’s Limestone & Ready-Mix Co. v. Reimer*, 2006 WI App 161, ¶14, 295 Wis. 2d 556, 721 N.W.2d 704.³

Therefore,

IT IS ORDERED that the circuit court’s order is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

³ The State requests that we caution Maday that he may be sanctioned for continuing to file motions and appeals that are procedurally barred. Although we impose no sanction at this time, we note that we have authority to impose sanctions when a litigant is “abusing the appellate process by repetitively litigating the same matters.” *See State v. Casteel*, 2001 WI App 188, ¶25, 247 Wis. 2d 451, 634 N.W.2d 338. The sanctions may include limitations on a litigant’s future filings in this court. *See id.*

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals