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

March 5, 2025

To:

Hon. Faye M. Flancher
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

John Blimling
Electronic Notice

Ryan T. Thornton
Electronic Notice

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

2023AP1596-CR State of Wisconsin v. Ryan T. Thornton (L.C. #2019CF397)

Before Gundrum, P.J., Neubauer 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).

Ryan T. Thornton, pro se, appeals two orders.[1] The first is an order electronically declining Thornton's proposed order to direct the State to provide information on the racial distribution of the 27-member voir dire panel at his trial for strangulation/suffocation and disorderly conduct. The second is an order denying Thornton's motion for an evidentiary hearing concerning his allegations of ineffective assistance of counsel. Based upon our review

[1] By order dated October 17, 2023, this court concluded it lacked jurisdiction to review two judgments of conviction that Thornton also sought to appeal.

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).[2] We affirm.

In 2019, Thornton was charged with one count of strangulation and one count of disorderly conduct, each with a domestic abuse surcharge. Thornton proceeded to a jury trial, at which he represented himself, and was convicted of both offenses. Notably, Thornton made no objection to the composition of the jury that was selected.

Following his conviction, Thornton sent a flurry of public records requests to the Racine County courthouse. One such request was for a listing of all individuals randomly selected for jury service on the week of Thornton's trial, along with demographic information for each of those individuals. The Clerk of Circuit Court responded by identifying all 252 individuals in jury venire. The response declined to provide their individual demographic data, noting that such data was confidential, but the clerk did include aggregate demographic information for the jury venire.

Several months later, Thornton filed a public records request titled, "Request for Racial Distribution of Jurors Used in Voir Dire." Thornton requested that the Clerk of Circuit Court provide "[i]ndividual races of all names that the CCAP Jury Application randomly selected for the week in which the 19CF397 jury trial took place." The clerk denied this duplicative request, again citing the confidentiality afforded to prospective jurors. *See* WIS. STAT. § 756.04(11)(a).[3] Alternatively, Thornton sought "A racial distribution summary for the 27 jurors Used in

[2] All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

[3] The clerk's response mistakenly cited to WIS. STAT. § 756.01(11)(a), which does not exist.

Voir Dire per the attached [trial] transcripts … so that this can be compared to the racial distribution … that the CCAP Jury Application randomly selected for the week in which the 19CF397 jury trial took place." The clerk stated that the CCAP jury application did not supply a racial distribution summary report for voir dire panels, and the public records law did not require the clerk's office to create a new responsive record by extracting information from other records. *See* WIS. STAT. § 19.35(1)(L).

Thornton subsequently filed a proposed order requiring the State to provide Thornton with information about the racial distribution of the 27-member voir dire panel at his trial. He identified the jurors by name and asserted that, as best he could recall, the voir dire panel contained only a single non-Caucasian person, a much greater percentage of Caucasian members than the jury venire (74.6%). As relief, the motion sought to "[d]etermine where the truth lies regarding the Issue below," which apparently referred to Thornton's contention that the voir dire panel was "obviously selected in favor of the Prosecution." The circuit court declined the proposed order with the notation that Thornton's request for records had been addressed by the clerk's office. Thornton appeals the declined proposed order.

Thornton also appeals an order denying his request for a ***Machner*** hearing.[4] As background, Thornton had filed a pro se postconviction motion shortly after a trial, which motion was scheduled to be taken up at the sentencing hearing. After his trial, Thornton retained Attorney Justin Singleton to represent him at sentencing. Singleton filed a motion to adjourn the postconviction hearing, asserting Thornton had not retained him to review any postconviction

[4] *See* ***State v. Machner***, 92 Wis. 2d 797, 285 N.W.2d 905 (Ct. App. 1979).

issues (though Thornton was attempting to do so), he had not researched whether the issues raised by Thornton were valid, and he could not advance the motion on Thornton's behalf. At the hearing, the circuit court advised Thornton that his pro se postconviction motion had no merit, and the parties proceeded to sentencing, with Singleton representing Thornton for that purpose. Singleton filed a notice of intent to pursue postconviction relief on Thornton's behalf, and then, after further motion practice, this court granted what we construed as a motion to voluntarily dismiss the appeal in favor of an extension of time to request transcripts.

Singleton appears not to have made any filing after December 27, 2019, and in December 2020, Thornton began his pro se public records campaign in earnest. In the ensuing years, Thornton filed a multitude of pro so motions in the circuit court and in this court. In resolving those motions, we observed numerous times that Thornton's direct appeal rights were long expired, and we denied his motions to reinstate those rights given the "inordinate amount of time" that had passed. Eventually, we stated that we would no longer respond to any further requests for similar relief.

Thornton then began pressing the circuit court to schedule an evidentiary hearing on his allegations that Singleton had provided constitutionally ineffective assistance. He alleged, in essence, that he had been abandoned by Singleton, and he sought an order permitting an "indefinite extension" of time for Singleton to file an appeal. The court concluded it lacked

authority to grant an extension of time to file an appeal pursuant to well-settled law.[5] Thornton also appeals that order.

We agree with the circuit court's disposition of both matters, as Thornton's filings fail to articulate any cognizable basis for granting the requested relief. Thornton's convictions are years old; his direct appeal rights have long since lapsed. Accordingly, his motions are properly categorized as motions under WIS. STAT. § 974.06.[6]

If a WIS. STAT. § 974.06 motion does not raise facts sufficient to entitle the movant to relief, or presents only conclusory allegations, or if the record conclusively demonstrates that the defendant is not entitled to relief, the circuit court need not hold a hearing on the motion. ***State v. Allen***, 2004 WI 106, ¶9, 274 Wis. 2d 568, 682 N.W.2d 433. We review de novo whether the motion on its face alleges sufficient material fact that, if true, would entitle the defendant to relief. ***Id.*** Material facts might include the "who, what, where, when, why, and how" that form the basis for the requested relief. ***State v. Romero-Georgana***, 2014 WI 83, ¶37, 360 Wis. 2d 522, 849 N.W.2d 668.

Thornton's proposed order regarding the racial information of the voir dire panel did not satisfy these standards. Thornton did not allege that the clerk's refusal to provide racial

[5] The court further noted that none of Thornton's allegations suggested Singleton had performed deficiently as postconviction counsel, which was a matter the circuit court could have ordered relief on. Moreover, even if Thornton had made such allegations, the court concluded he would be procedurally barred from raising that issue given the numerous intervening pro se postconviction motions.

[6] WISCONSIN STAT. § 974.06(1) permits postconviction proceedings for, among other things, a claim for release because "the sentence was imposed in violation of the U.S. Constitution or the constitution or laws of this state." Though Thornton's proposed order seeking racial information about the voir dire panel did not explicitly make any constitutional claims, we presume he sought such information in support of the fair-cross-section claim he attempts to articulate on appeal.

demographic information was a violation of the Public Records Law, nor did he attempt to rebut the reason the clerk's office had provided for the denial (namely, that the requested record did not exist). Thornton cited no law in support of his motion, nor did he even raise the prospect of a fair-cross-section claim. He did not explain why the proposed order was necessary or appropriate. Instead, he argued that the voir dire panel was "obviously selected in favor of the Prosecution" and that it was "likely that there is more to" the racial composition of the voir dire panel than "just a coincidence." These are merely conclusory allegations of the type that are insufficient to warrant further proceedings.

Thornton's request for a ***Machner*** hearing fares no better. Regardless of the constitutional adequacy of his appellate counsel, the relief Thornton requested—an indefinite extension of the time limit within which to commence an appeal—was not within the circuit court's power to grant. Only this court can order an extension of the time periods under WIS. STAT. RULE 809.30. ***State ex rel. Kyles v. Pollard***, 2014 WI 38, ¶32, 354 Wis. 2d 626, 847 N.W.2d 805. Thornton's motion to the circuit court was filed after this court had repeatedly declined to extend the time limit for appeal, and after this court had told Thornton it would no longer entertain such requests. The circuit court properly denied Thornton's attempt to make an end-run around this court's denials.

IT IS ORDERED that the orders of the circuit court are summarily affirmed. See WIS. STAT. RULE 809.21(1).

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

Samuel A. Christensen
Clerk of Court of Appeals