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DISTRICT III

May 6, 2025

To:

Hon. David L. Weber
Circuit Court Judge
Electronic Notice

Michael J. Conway
Electronic Notice

Connie DeFere
Clerk of Circuit Court
Door County Courthouse
Electronic Notice

Antwan D. Hopson 408513
Wisconsin Secure Program Facility
P.O. Box 1000
Boscobel, WI 53805-1000

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

2023AP1398

State of Wisconsin v. Antwan D. Hopson (L. C. No. 2017CF76)

Before Stark, P.J., Hruz, and Gill, 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).

Antwan Hopson, pro se, appeals from an order denying his WIS. STAT. § 974.06 (2023-24)¹ motion for postconviction relief. He argues that: (1) his trial and postconviction counsel were ineffective; and (2) the prosecutor engaged in misconduct. 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 2023-24 version.

In 2018, Hopson was convicted of three counts of first-degree sexual assault of a child under the age of thirteen after a seven-day bench trial. On direct appeal, Hopson argued that: (1) the evidence was insufficient to support the convictions; (2) the circuit court erroneously exercised its discretion by allowing the State to introduce other-acts evidence from Hopson's three other young female victims; and (3) the court erroneously exercised its discretion when it denied Hopson's motion for a mistrial. *See State v. Hopson*, 2020AP1758-CR, unpublished slip op. (WI App Jan. 19, 2022). We rejected these arguments. Hopson petitioned for review. The Wisconsin Supreme Court denied his petition.

Hopson then filed the current WIS. STAT. § 974.06 postconviction motion. The circuit court denied the motion without a hearing. This appeal follows.

Hopson first contends that he received ineffective assistance from his postconviction and appellate counsel for, respectively, failing to investigate and review all of the documents in the case and failing to argue on direct appeal that he received ineffective assistance of trial counsel. To establish ineffective assistance of counsel, a person must show that counsel performed deficiently and that the deficient performance prejudiced his or her defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). In addition, a person arguing that he or she received ineffective assistance of postconviction/appellate counsel on direct appeal must also show that the claims he or she contends should have been raised are clearly stronger than the issues that postconviction/appellate counsel chose to pursue. *State v. Romero-Georgana*, 2014 WI 83, ¶¶45-46, 360 Wis. 2d 522, 849 N.W.2d 668.

We conclude that Hopson insufficiently pled his claim alleging ineffective assistance of postconviction and appellate counsel. Hopson made no attempt in his current postconviction

motion to explain *why* his current claims are clearly stronger than the claims previously raised by his counsel on direct appeal. Hopson acknowledges as much in his appellant’s brief, stating that he would have explained “why [he] felt the issue of ineffective assistance was stronger than the issues [presented on direct appeal]” at a *Machner*² hearing, had the circuit court ordered that one be held. This approach is not what *Romero-Georgana* requires. Hopson was required to explain in his postconviction motion why the claims he contends should have been raised are clearly stronger than the issues that postconviction/appellate counsel chose to pursue. See *id.*, ¶¶45-46. Hopson wholly failed to do so. Therefore, the court properly denied his motion with respect to the ineffective assistance claim.

Hopson next argues that the prosecutor engaged in misconduct by knowingly presenting false testimony from the victim’s forensic interview regarding a phone call the victim’s mother allegedly had with Hopson. Hopson did not adequately plead this claim because he failed to allege a sufficient reason for failing to allege or raise the issue during prior postconviction and appellate proceedings. See *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181, 517 N.W.2d 157 (1994) (a person is barred from raising issues that he or she could have raised in a prior postconviction motion or on direct appeal unless he or she shows a “sufficient reason” why the claims were not previously raised). Moreover, even if Hopson’s argument had been properly raised, he would not be entitled to relief. For the reasons explained by the circuit court, Hopson has not shown that any false evidence was presented to the court, much less alleged facts to support his assertion that the prosecutor *knowingly* presented false evidence to the court.

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

Therefore,

IT IS ORDERED that the order is 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