



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 I

June 10, 2025

To:

Hon. Glenn H. Yamahiro
Circuit Court Judge
Electronic Notice

Sara Lynn Shaeffer
Electronic Notice

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

Stanley Atkins 331555
New Lisbon Correctional Inst.
P.O. Box 2000
New Lisbon, WI 53950-2000

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

2022AP757

State of Wisconsin v. Stanley Atkins (L.C. # 2003CF2164)

Before White, C.J., Donald, P.J., and Geenen, 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).

Stanley Atkins, pro se, appeals from orders of the circuit court denying his WIS. STAT. § 974.06 (2023-24)¹ motion and a motion for reconsideration. 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. The orders are summarily affirmed.

Atkins, who represented himself at trial, was convicted by a jury of one count of first-degree intentional homicide while armed and one count of possession of a firearm by a felon.

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

The circuit court sentenced Atkins to life imprisonment for the homicide with eligibility for extended supervision after 45 years, and ten concurrent years of imprisonment on the weapons charge.

In March 2006, Atkins' postconviction attorney filed a motion for a new trial. Counsel also requested a competency evaluation for Atkins, which the circuit court ordered. In the interim, Atkins filed a pro se motion to withdraw counsel's postconviction motion. At a hearing in June 2006, the circuit court found Atkins competent for purposes of postconviction proceedings. Counsel then moved to withdraw. The circuit court denied counsel's motion to withdraw and set the March 2006 postconviction motion for a hearing in August. Before the hearing date, Atkins filed a pro se motion "for waiver of postconviction counsel" so that he could proceed pro se. When the circuit court convened for the motion hearing, Atkins refused to leave the holding cell to participate. The circuit court denied Atkins' motion to discharge postconviction counsel and denied the motion for a new trial. Atkins appealed.

On appeal, Atkins raised two issues: whether he had properly waived his right to trial counsel under *State v. Klessig*, 211 Wis. 2d 194, 564 N.W.2d 716 (1997), and whether police had coerced a confession from him. See *State v. Atkins*, No. 2006AP2084-CR, unpublished op. and order at 2 (WI App Nov. 13, 2007). We affirmed in part and reversed in part. See *id.* at 2, 10. We concluded that the police had not coerced a confession, but the circuit court's colloquy with Atkins about his waiver of trial counsel was inadequate. *Id.* at 2. We therefore reversed that part of the postconviction order denying Atkins a new trial, and we remanded the case to the circuit court to conduct a *nunc pro tunc* hearing under *Klessig* to determine whether Atkins had validly waived his right to trial counsel. See *Atkins*, No. 2006AP2084-CR at 7, 10; *Klessig*, 211 Wis. 2d. at 213.

Upon remand, Atkins waived the hearing on the *Klessig* issue and instead filed a new motion in the circuit court under *State v. Knight*, 168 Wis. 2d 509, 484 N.W.2d 540 (1992), alleging that he was forced to have postconviction/appellate counsel, among other things. The circuit court dismissed Atkins’ motion for lack of jurisdiction. *See id.* at 512-13 (explaining that a *Knight* petition filed in the court of appeals is the proper procedural vehicle for reviewing claims of ineffective appellate counsel).

In January 2022, Atkins filed the WIS. STAT. § 974.06 motion underlying this case. He claimed that postconviction counsel “forc[ed] his representation upon Atkins” and “misrepresent[ed] Atkins[’] mental capacity” in order to continue to represent Atkins in his appeal. Atkins further alleged that postconviction counsel was ineffective for failing to raise numerous issues in the original postconviction motion and requested an evidentiary hearing. The circuit court² denied the motion, noting that Atkins had not alleged or shown that any of the unraised issues were clearly stronger than those actually raised by postconviction counsel. *See State v. Romero-Georgana*, 2014 WI 83, ¶4, 360 Wis. 2d 522, 849 N.W.2d 668. Thus, the circuit court concluded that the motion was procedurally barred.

Atkins moved for reconsideration, asserting that *Romero-Georgana* did not apply because he was forced to be represented by postconviction counsel, who “fraudulently filed” the March 2006 postconviction motion. The circuit court denied the motion, explaining that it had previously rejected those arguments and that, even if it set aside the “clearly stronger”

² The Honorable Glenn H. Yamahiro reviewed and denied the postconviction motion and will be referred to as the circuit court.

requirement, the WIS. STAT. § 974.06 motion was “predicated upon conclusory and unsupported allegations.” Atkins appeals.

An issue that could have been raised on direct appeal or in a previous motion is barred absent a sufficient reason for not raising the issue in the earlier proceedings. *See* WIS. STAT. § 974.06; *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 181-82, 517 N.W.2d 157 (1994). “In some instances, ineffective assistance of postconviction counsel may be a sufficient reason for failing to raise an available claim in an earlier motion or on direct appeal.” *Romero-Georgana*, 360 Wis. 2d 522, ¶36. “[A] defendant who alleges in a § 974.06 motion that his postconviction counsel was ineffective for failing to bring certain viable claims must demonstrate that the claims he wishes to bring are clearly stronger than the claims postconviction counsel actually brought.” *See id.*, ¶¶4, 73.

“[T]o adequately raise a claim for relief, a defendant must allege ‘sufficient material facts—e.g., who, what, where, when, why, and how—that, if true, would entitle [the defendant] to the relief he seeks.’” *Id.*, ¶37 (citations omitted; brackets in *Romero-Georgana*). That is, Atkins must allege facts that support every facet of his claim and that, if true, would entitle him to relief. *See id.*, ¶38. A circuit court may deny a postconviction motion without a hearing if the defendant fails to allege sufficient facts entitling him or her to relief or presents only conclusory allegations, or if the record conclusively demonstrates the defendant is not entitled to relief. *State v. Allen*, 2004 WI 106, ¶12, 274 Wis. 2d 568, 682 N.W.2d 433.

First, as the circuit court found, Atkins has made no effort to argue that the claims he wishes to bring are clearly stronger than the claims postconviction counsel actually brought. Atkins concedes as much in his reply brief. This omission is particularly significant because, in

this case, postconviction counsel actually prevailed on one of the issues that it raised in the March 2006 motion. Atkins therefore cannot meet the “clearly stronger” requirement.

Second, Atkins counters that procedural bars like *Escalona* and *Romero-Georgana* are inapplicable to him because the March 2006 motion filed by postconviction counsel was void once Atkins informed the circuit court he wanted to proceed pro se and attempted to withdraw the motion. However, Atkins cites no authority in support of this proposition, and this court need not consider unsupported arguments. See *Kruczek v. DWD*, 2005 WI App 12, ¶32, 278 Wis. 2d 563, 692 N.W.2d 286.

Finally, Atkins also complains that the circuit court failed to accept the allegations in his WIS. STAT. § 974.06 motion as true and failed to order an evidentiary hearing. See *Allen*, 274 Wis. 2d 568, ¶9 (stating that the circuit court must hold an evidentiary if the motion on its face alleges sufficient material facts that, if true, would entitle defendant to relief). However, we agree with the circuit court’s characterization of Atkins’ allegations as “conclusory and unsupported.” See *id.*, ¶12.

Based on the foregoing, we agree with the circuit court that Atkins has failed to identify any sufficient reason to avoid the application bar of *Escalona*. Thus, the circuit court did not err in denying the motion without a hearing, and reconsideration of that decision was not warranted.

Therefore,

IT IS ORDERED that the orders are 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