

## OFFICE OF THE CLERK

**Supreme Court of Wisconsin**

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WI 53701-1688

TELEPHONE (608) 266-1880

FACSIMILE (608) 267-0640

Web Site: [www.wicourts.gov](http://www.wicourts.gov)

April 18, 2023

**To:**

Hon. Jeffrey A. Wagner  
Circuit Court Judge  
901 N. 9th St.  
Milwaukee, WI 53233

Jacob Manian  
Fox, O'Neill & Shannon S.C.  
622 North Water Street, Ste. 500  
Milwaukee, WI 53202-4978

Anna Hodges  
Clerk of Circuit Court  
901 N. 9th St., Rm G-8  
Milwaukee, WI 53233

Robert N. Meyeroff  
Robert N. Meyeroff, S.C.  
633 W. Wisconsin Ave., Ste. 605  
Milwaukee, WI 53203

Winn S. Collins  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

Dominique P. Wilder 528847  
Columbia Corr. Inst.  
P.O. Box 900  
Portage, WI 53901-0900

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

---

No. 2023AP103-W

Wilder v. Fuchs, L.C.#2013CF4864

On April 5, 2022, the court of appeals issued a decision affirming an order denying the postconviction motion that Dominique P. Wilder filed pursuant to Wis. Stat. § 974.06. Mr. Wilder filed his § 974.06 motion pro se but was represented by counsel on appeal. The 30-day period in which to file a petition for review of this decision has passed. Wis. Stat. §§ 808.10 and 809.62(1m).

On January 23, 2023, Mr. Wilder filed a pro se petition for writ of habeas corpus, asking this court to allow the late filing of a petition for review because his appellate lawyer rendered ineffective assistance by failing to timely forward him a copy of the appellate decision. Mr. Wilder cites State ex rel. Schmelzer v. Murphy, 201 Wis. 2d 246, 253-58, 548 N.W.2d 45 (1996) as support for this request. See id. (holding that “[w]here a statutory right to counsel exists,” that right includes the right to effective assistance of counsel in timely filing a petition for review; where counsel fails to do so, this court has the power to allow the late filing of the petition for review).

Page 2

April 18, 2023

No. 2023AP103-W

Wilder v. Fuchs, L.C.#2013CF4864

IT IS ORDERED that the petition is denied. There is no constitutional or statutory right to counsel in a Wis. Stat. § 974.06 proceeding. See State ex rel. Warren v. Schwarz, 219 Wis. 2d 615, 648-49, 579 N.W.2d 698 (1998) (no constitutional right to assistance of counsel exists in a § 974.06 proceeding; appointment of counsel pursuant to § 974.06(3)(b) is discretionary). Mr. Wilder may not maintain an ineffective assistance claim in a proceeding in which he was not entitled to representation. See Coleman v. Thompson, 501 U.S. 722, 752-53 (1991).

---

Sheila T. Reiff  
Clerk of Supreme Court