

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 22, 2011

A. John Voelker
Acting Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2010AP2045

STATE OF WISCONSIN

Cir. Ct. No. 1995CF950298

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

STEVEN MARCEL WRIGHT,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JEFFREY A. CONEN, Judge. *Affirmed.*

Before Curley, P.J., Fine, and Brennan, JJ.

¶1 PER CURIAM. Steven Marcel Wright, *pro se*, appeals an order denying his motion for postconviction relief. He argues that he received ineffective assistance of counsel during postconviction proceedings brought nearly

ten years after he was convicted of armed robbery and being a felon in possession of a firearm. We affirm.

¶2 Wright was convicted of armed robbery and being a felon in possession of a firearm in 1995. Wright was represented by Mark Lipscomb, Esq. He did not directly appeal from the judgment of conviction. On August 12, 2004, Scott Anderson, Esq., filed a motion for postconviction relief pursuant to WIS. STAT. § 974.06, arguing that Wright should be allowed to withdraw his guilty plea because the circuit court did not inform him that it was not bound by the plea negotiations. The circuit court denied the motion. On January 21, 2005, Anderson filed a second postconviction motion on Wright's behalf, seeking resentencing, which was also denied. A month later, Anderson filed a third postconviction motion, seeking to withdraw Wright's guilty plea. Again, the circuit court denied the motion. Anderson appealed that order on Wright's behalf, but we dismissed the appeal as untimely because it was not brought within ninety days. *See* WIS. STAT. § 808.04(1).

¶3 Five years after we dismissed that appeal as untimely, Wright filed a *pro se* motion alleging ineffective assistance of postconviction counsel. He argued that Anderson should have argued in the three postconviction motions filed in 2004 and 2005 that Wright received ineffective assistance of trial counsel. Wright also contended that Anderson rendered ineffective assistance by failing to timely file a notice of appeal. The circuit court rejected Wright's arguments. This appeal is taken from that ruling.

¶4 The constitutional right to the effective assistance of counsel is tied to the right to counsel; there is no constitutional right to the effective assistance of counsel in proceedings where there is no right to counsel. *See Coleman v.*

Thompson, 501 U.S. 722, 752 (1991). In Wisconsin, there is no state constitutional right to counsel for discretionary postconviction appeals brought pursuant to WIS. STAT. § 974.06 after the time for filing a direct appeal has elapsed, nor is there any federal constitutional right to counsel for discretionary collateral criminal proceedings. See *State ex rel. Warren v. Schwarz*, 219 Wis. 2d 615, 648–649, 579 N.W.2d 698, 713 (1998). Wright had no right to the assistance of counsel in the postconviction proceedings brought by Anderson nearly ten years after his conviction, and therefore may not assert that his right to the *effective assistance of counsel* was violated during those proceedings. Therefore, we affirm the circuit court’s order denying Wright’s motion.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

