

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 9, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

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 § 808.10 and RULE 809.62, STATS.

**Nos. 98-1907
98-1908**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JOHN CASTEEL,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Brown County:
JOHN D. McKAY, Judge. *Affirmed.*

Before Cane, C.J., Myse, P.J., and Hoover, J.

PER CURIAM. John Casteel appeals a trial court order that denied his motion for reconsideration. Casteel asked the trial court to reconsider its decision to deny Casteel's motion to modify his twenty and thirty-year consecutive sentences. He received those sentences in his 1985 and 1986

convictions for two counts of armed robbery, together with two two-year concurrent sentences on two counts of unlawful firearm possession. Casteel did not file a timely appeal from the trial court order denying his motion to modify. On appeal, Casteel argues that the trial court should have reduced his sentence for various reasons, including the fact that his sentence was unduly harsh and unconscionable. In response, the State argues that we should not review Casteel's appeal. The State claims that Casteel's appeal is an unlawful attempt to secure appellate review of the trial court's order denying sentence modification by appealing a subsequent order denying reconsideration. The State also claims that prior rulings by us are law of the case and that Casteel's sentence was not harsh or unconscionable. We reject Casteel's arguments and affirm the trial court's order.

We first decline to review any claims raised in Casteel's motion to modify sentence. The trial court denied Casteel's motion to modify in summary fashion, and Casteel did not file a timely appeal concerning that order. Instead, Casteel filed a motion for reconsideration and later an appeal of the order denying that motion. Casteel's motion for reconsideration raised some of the same claims he raised in his motion to modify. We have no jurisdiction to review issues that the trial court denied in its order on Casteel's motion to modify. Casteel's appeal is not timely from that order. Casteel may not obtain appellate review of a prior final order by appealing a latter order denying reconsideration. Otherwise, Casteel could use that latter order to extend the time to appeal the prior order. *See Marsh v. City of Milwaukee*, 104 Wis.2d 44, 46-48, 310 N.W.2d 615, 616-17 (1981); *Ver Hagen v. Gibbons*, 55 Wis.2d 21, 25-26, 197 N.W.2d 752, 755 (1972). We therefore will not review (1) claims raised in Casteel's motion to modify and (2) claims raised in Casteel's motion for reconsideration that reargue issues Casteel raised in his motion to modify.

To the extent that Casteel's motion for reconsideration raised reasons for reducing the sentence varying from the motion to modify, the trial court summarily rejected them without comment on their merits. We see no reason to overrule that decision. The trial court had no duty to entertain successive motions rearguing the same basic issues. *See Jones v. State*, 70 Wis.2d 62, 73, 233 N.W.2d 441, 447 (1975). Like the principal motion, Casteel's motion for reconsideration continued to allege the excessiveness of his sentence. His motion for reconsideration put forward elaborations on why his sentence was excessive. Casteel gave the trial court no reason, however, why he could not have put these elaborations in his first motion. Litigants have no right to burden trial courts with successive motions filed a few weeks apart making collateral attacks on the same basic question. Successive motions tend to monopolize the court's time, waste judicial resources, and deprive other litigants of timely consideration of their cases. Further, Casteel had filed numerous trial court attacks on his sentence in prior years, and we have affirmed trial court rulings rejecting those attacks. Our affirmance of those rulings act as the law of the case. *See, e.g., State v. Brady*, 130 Wis.2d 443, 448, 388 N.W.2d 151, 154 (1986).

By the Court.—Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

