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DISTRICT I

March 31, 2026

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

2024AP2296-CR

State of Wisconsin v. Jemeir LaShon Brown (L.C. # 2021CF4485)

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

Jemeir LaShon Brown appeals a judgment convicting him of first-degree reckless injury by the use of a dangerous weapon, possession of a firearm by a felon, and resisting an officer. Brown also appeals from the order denying his postconviction motion for relief. 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 (2023-24).¹ For the foregoing reasons, we affirm.

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

The State initially charged Brown with first-degree reckless injury by the use of a dangerous weapon, possession of a firearm by a felon, two counts of felony bail jumping, and resisting an officer.² The complaint alleged that on October 19, 2021, police responded to a shooting at 4730 West Locust Street in Milwaukee and found the victim, C.C., with a paralyzing gunshot wound. C.C. identified Brown as the shooter before being hospitalized. At the hospital, C.C. told officers that he went to Brown's home to collect a \$75 dollar debt. C.C. initially did not tell officers that he went to Brown's home to collect a drug debt. At trial, however, C.C. admitted that Brown owed drug money and that he and Brown had prior drug dealings. C.C. told the jury that he would "front" Brown marijuana; meaning C.C. would provide Brown marijuana with the expectation that Brown would pay him back. The jury also saw text messages between C.C. and Brown, indicating that Brown owed C.C. \$75. C.C. admitted to sending Brown a picture of Brown's front door and multiple other messages asking Brown to come outside. Among the text messages seen by the jury were texts from C.C. stating, "I'm posted ready for the smoke still," and "Don't put yo family in danger like this, Bro."

As relevant to this appeal, Brown testified that he felt threatened by C.C.'s text messages and tried to leave his house but encountered C.C., who was armed. Brown stated that he ran away, and heard gunshots as he was running. Later, after returning to his car, Brown drove away from the scene and noticed that a black vehicle was "pursuing" him; Brown claimed that an individual from that vehicle fired several shots into Brown's car before speeding off.

² The State moved to dismiss those counts on the morning of trial.

During closing arguments the State recapped C.C.'s testimony, telling the jury: "[C.C.] admitted to delivery of THC, a felony offense, just to explain to you the situation that led to Mr. Brown shooting him. There's no reason for him to get up and admit to [a] felony offense for drug dealing unless that's actually what happened here."

The jury ultimately found Brown guilty on all three counts. After the verdict was received, the trial court found that the record supported the habitual criminal penalty enhancer. The court sentenced Brown to 15 years of initial confinement and five years of extended supervision on the first-degree reckless injury count. On the possession of a firearm by a felon count, Brown received a consecutive sentence of five years of initial confinement and five years of extended supervision. On the obstruction count, Brown received a concurrent sentence of one year in the House of Correction. The court held a restitution hearing and set restitution at \$6,391.04 for various items, including expenses incurred by C.C.'s family members.

Brown filed a postconviction motion for a new trial on the grounds that his trial counsel was ineffective for: (1) failing to submit evidence at trial that C.C. had lied to Brown's extended supervision agent about attempting to collect a drug debt and also attempted to delete threatening text messages that he sent to Brown prior to the shooting; and (2) failing to object to the portion of the State's closing argument in which the State referred to C.C.'s delivery of marijuana as a felony. Alternatively, Brown moved for resentencing on the basis that the State did not properly prove the applicability of the habitual criminality repeater enhancer. Brown also contested the amounts of restitution ordered to C.C.'s family. The postconviction court denied the motion without a hearing. This appeal follows.

On appeal, Brown renews the arguments he raised in his postconviction motion. First, he contends that his trial counsel was ineffective for: (1) failing to adequately impeach C.C. with evidence that C.C. initially lied about attempting to collect a drug debt and that C.C. deleted threatening text messages he sent to Brown prior to the shooting; and (2) failing to object to the part of the State’s closing argument in which the State informed the jury that C.C.’s delivery of marijuana was a felony.

To prevail on a claim of ineffective assistance of counsel, a defendant must prove both that trial counsel’s performance was deficient and that the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). To prove deficient performance, the defendant must show that trial counsel’s actions or omissions were “professionally unreasonable[.]” *Id.* at 691. To prove prejudice, the defendant must show there is “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. When we review a claim of ineffective assistance of counsel, we uphold the trial court's findings of fact unless they are clearly erroneous. *State v. Nielsen*, 2001 WI App 192, ¶14, 247 Wis. 2d 466, 634 N.W.2d 325. Whether the facts satisfy the deficiency and prejudice components are questions of law that we review de novo. *Id.*

As to the first claim, we agree with the postconviction court that trial counsel’s performance was not ineffective for failing to provide additional impeachment evidence. Trial counsel attacked C.C.’s credibility in multiple ways, including but not limited to: reviewing the text messages sent from C.C. to Brown, including the threatening messages; demonstrating that C.C. was angry over an outstanding debt; establishing that C.C. was a drug dealer; and poking holes in C.C.’s statements to law enforcement following the shooting. In light of the record, we

agree with the postconviction court that counsel's failure to provide additional impeachment evidence was neither deficient nor prejudicial.

Similarly, we conclude that trial counsel's failure to object to the State's reference to C.C.'s delivery of marijuana as a felony was not deficient. Brown contends that the statement was made as an attempt by the State to bolster C.C.'s credibility; in other words, the State urged the jury to believe C.C. because he admitted to committing a felony against his own interest. As the postconviction court noted, the jurors were instructed that closing arguments are not evidence. Jurors are presumed to follow the court's instructions. *State v. LaCount*, 2008 WI 59, ¶23, 310 Wis. 2d 85, 750 N.W.2d 780. Moreover, the postconviction court stated that “[i]f an objection had been raised, the court would likely have merely stricken the comment from the record” and the jury would have been instructed to ignore the comment. As stated, jurors are presumed to follow the court's instructions. *See id.* Moreover, in light of the evidence presented at trial, we agree with the postconviction court that the State's single comment was not likely to persuade the jury as to C.C.'s credibility.

Brown next contends that there was an “insufficient factual basis in proving the habitual criminality repeater beyond a reasonable doubt.” Specifically, Brown contends that “[t]he [trial] court improperly relieved the State of its burden under WIS. STAT. § 973.12 to prove beyond a reasonable doubt that Mr. Brown had a qualifying prior conviction” by “independently research[ing]” Brown's prior conviction. We agree with the State that Brown forfeited this argument by failing to object to the admission of his prior conviction at the sentencing hearing.

At the beginning of Brown's sentencing hearing, the trial court noted that “the criminal complaint alleges that Mr. Brown was convicted in Marathon County case 12CF239 on

June 11th of 2013.” The court then took judicial notice of the electronically filed judgment of conviction for Marathon County case 12CF239 on its dashboard and confirmed the date of conviction, the sentence imposed, and the amount of credit. The court also noted that the offenses in the underlying case occurred within five years of Brown’s release. The court asked Brown’s counsel whether Brown disputed the Marathon County conviction, to which counsel responded in the negative. The State then explained that Brown “has 16 prior convictions. Most recently that Marathon County case, 12CF239, possession with intent to distribute heroin for which he received the prison sentence of five years initial confinement, five years extended supervision that we have already discussed.” Brown did not make a contemporaneous objection to either the court’s judicial notice of the Marathon County conviction or the State’s discussion of that conviction. Indeed, Brown’s counsel confirmed the conviction. A defendant forfeits a challenge to the State’s conduct at sentencing if the defendant fails to make a contemporaneous objection. *State v. Weigel*, 2022 WI App 48, ¶9, 404 Wis. 2d 488, 979 N.W.2d 646. We agree with the State that Brown’s argument on appeal as to the habitual criminality penalty enhancer is forfeited and we do not address it further.

Lastly, Brown argues that C.C. is not entitled to restitution for expenses incurred by his family members because they are not victims. The trial court held a restitution hearing concerning C.C.’s request for \$6,391.04 to cover various losses, including medical expenses not covered by insurance, moving costs incurred when he had to relocate to his parents’ home in Georgia due to his medical needs, and expenses for remodeling a bathroom in his parents’ home to make it handicap accessible. Brown contested the restitution amount, with his trial counsel arguing that his extended incarceration reduced his ability to pay. Counsel did not challenge the application of the restitution statute in terms of the items of restitution or their specific amounts.

We agree with the postconviction court that Brown has therefore forfeited the ability to do so now. *See State v. Ndina*, 2009 WI 21, ¶30, 315 Wis. 2d 653, 761 N.W.2d 612 (holding that the failure to object during trial proceedings “constitutes a forfeiture of the right on appellate review”). We do not address this issue further.

For the foregoing reasons, we affirm the judgment of conviction and the order denying Brown’s postconviction motion for relief.

Therefore,

IT IS ORDERED that the judgment and order 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