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DISTRICT I

May 19, 2026

To:

Hon. Michelle A. Havas
Circuit Court Judge
Electronic Notice

John Blimling
Electronic Notice

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

Daniel J. O'Brien
Electronic Notice

Rose Lee VanElderen
Electronic Notice

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

2024AP2175-CR

State of Wisconsin v. Charman Banks (L.C. # 2023CF2695)

Before Donald, C.J., Colón, 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).

Charman Banks appeals a judgment of conviction entered after a jury trial. He alleges that his trial counsel was ineffective in various ways. Based upon a 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 Banks did not preserve his claims for appellate review by raising them first in the trial court. Therefore, we summarily affirm.

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

The State charged Banks in an amended information with attempted first-degree intentional homicide by use of a dangerous weapon and as a party to a crime. Banks obtained counsel and proceeded to trial. The jury found him guilty as charged. The trial court imposed a twenty-four-year term of imprisonment.

A few weeks after the sentencing hearing, Banks, by successor counsel, filed a notice of appeal from the judgment of conviction without first pursuing a postconviction motion. He subsequently filed an appellant's brief in this court, raising only claims that his trial counsel was ineffective. The State filed a respondent's brief, arguing that Banks had forfeited his claims by failing to raise them in the trial court. Banks did not file a reply brief.

A defendant who wishes to pursue a claim that trial counsel was ineffective must preserve trial counsel's testimony in a postconviction hearing. *State v. Machner*, 92 Wis. 2d 797, 804, 285 N.W.2d 905 (Ct. App. 1979). A *Machner* hearing is "essential in every case where a claim of ineffective assistance of counsel is raised." *State v. Curtis*, 218 Wis. 2d 550, 554-55, 582 N.W.2d 409 (Ct. App. 1998). Thus, "[c]laims of ineffective trial counsel ... cannot be reviewed on appeal absent a postconviction motion in the trial court." *State ex rel. Rothering v. McCaughtry*, 205 Wis. 2d 675, 677-78, 556 N.W.2d 136 (Ct. App. 1996). Banks did not file a postconviction motion before pursuing an appeal in this case. Accordingly, he has forfeited his claims of ineffective assistance of trial counsel. *See id.* at 678; *see also State v. Ndina*, 2009 WI 21, ¶¶29-30, 315 Wis. 2d 653, 761 N.W.2d 612 (explaining that failure to raise an argument in the trial court normally forfeits the argument on appeal).

Additionally, the State in its respondent's brief argued forfeiture and preclusion of appellate review, citing applicable Wisconsin law in support. Banks failed to file a reply brief,

thus conceding the State's arguments. *See United Coop. v. Frontier FS Coop.*, 2007 WI App 197, ¶39, 304 Wis. 2d 750, 738 N.W.2d 578. Both because Banks forfeited his claims, and because he conceded doing so, we affirm.

Upon the foregoing,

IT IS ORDERED that the judgment of conviction is 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