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DISTRICT II

July 21, 2026

To:

Hon. Jason A. Rossell
Circuit Court Judge
Electronic Notice

Michael J. Conway
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Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
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Will Straube
Electronic Notice

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

2025AP1257-CR

State of Wisconsin v. Shelton D. Glaspie (L.C. #2020CF1374)

Before Gundrum, Grogan, and Lazar, 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).

Shelton D. Glaspie appeals from a judgment of conviction and order denying postconviction 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 following reasons, we affirm.

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

BACKGROUND

This appeal concerns Glaspie's claim that his firearm possession conviction violates the Second Amendment as applied to him. *See* U.S. CONST. amend. II. The underlying facts comprise three cases for which the circuit court held one sentencing hearing in May 2023. The first case arose in October 2020, when law enforcement responded to a domestic dispute and for which the State charged Glaspie with battery and disorderly conduct, both charged as acts of domestic abuse with the repeater enhancer. Glaspie was released on cash bond. Under the conditions of the bond, Glaspie was barred from, among other things, possessing or consuming controlled substances without a prescription and committing additional crimes.

The next month, law enforcement officers investigated a vehicle that was blocking a driveway and found Glaspie sleeping with a pistol magazine protruding from his waistband, leading to the discovery that he possessed a handgun with an extended magazine. Glaspie remained silent when the officer repeatedly asked about it. Glaspie had his hand down the front of his pants, and the officer grabbed the magazine and gun out of Glaspie's pants. Upon Glaspie's arrest, law enforcement found nearly nine grams of marijuana on him. In November 2020, the State charged Glaspie with unlawfully possessing a firearm having been convicted of an out-of-state crime that would be a felony in Wisconsin, possessing tetrahydrocannabinols (THC) as a second and subsequent offense, and misdemeanor bail jumping with the repeater enhancer. The criminal complaint cited Glaspie's status as a second-and-subsequent offender given his 2018 conviction in Illinois for manufacture and delivery of cannabis, which is a crime that would be a felony if committed in Wisconsin. *See* WIS. STAT. § 961.41.

In July 2021, Glaspie reached a plea agreement to resolve both cases. Glaspie agreed to plead guilty to Count one in each case: being an out-of-state felon in possession of a firearm in the felony case and battery in the misdemeanor case. The remaining charges would be dismissed and read in at sentencing. The State agreed to remove the repeater enhancer from the battery offense and to refrain from making a specific sentencing recommendation. Glaspie pled guilty to the two offenses.

Meanwhile, in May 2022, law enforcement responded to another domestic dispute in which Glaspie was charged with eight offenses. Pursuant to a plea agreement, Glaspie pled guilty to only one count of disorderly conduct and one count of felony bail jumping in October 2022. The State dismissed the other charges outright.

The circuit court held a sentencing hearing for all three cases in May 2023. It imposed a six-year sentence evenly bifurcated between initial confinement and extended supervision for the firearm possession conviction. For Glaspie's two other cases, the court withheld sentence and imposed a probation term of three years to be served consecutively to the felon-in-possession sentence.

In March 2025, Glaspie filed a postconviction motion to vacate his firearm possession conviction for violating the Second Amendment as applied to him. The circuit court denied the motion for two reasons. First, it concluded that Glaspie's guilty plea waived his as-applied constitutional challenges pursuant to *State v. Jackson*, 2020 WI App 4, ¶18, 390 Wis. 2d 402, 938 N.W.2d 639 (2019). Second, it concluded that Glaspie's claim failed on the merits because his conduct at the time of arrest for being a felon in possession of a firearm was not protected by the Second Amendment. The court rejected Glaspie's claim he was carrying the firearm for self-

defense. Observing that Glaspie accepted the facts in the criminal complaint upon pleading guilty, the court determined that Glaspie “possessed the firearm to prevent his apprehension by law enforcement or to commit another offense related to the use of drugs.” The court said, “[h]istorically the Second Amendment has not covered the right of citizens to use firearms while committing other crimes As the Second Amendment did not cover [Glaspie’s] conduct at the time, his as applied constitutional challenge fails.” Glaspie appeals.

DISCUSSION

Glaspie raises the same claim on appeal: he seeks to vacate his firearm possession conviction for violating the Second Amendment as applied to him.² Whether the guilty plea waiver rule applies is a question of law that we review de novo. See **State v. Kelty**, 2006 WI 101, ¶13, 294 Wis. 2d 62, 716 N.W.2d 886. “[A] guilty, no contest, or Alford^[3] plea ‘waives all nonjurisdictional defects, including constitutional claims,’ other than facial constitutional challenges.” **State v. VanderGalien**, 2024 WI App 4, ¶15, 410 Wis. 2d 517, 2 N.W.3d 774 (2023) (alteration in original; citation omitted).

In Wisconsin, a guilty plea waives as-applied constitutional claims. **State v. Jackson**, 390 Wis. 2d 402, ¶11. Glaspie argues that the United States Supreme Court’s decision in **Class v. United States**, 583 U.S. 174 (2018) calls **Jackson** into question because **Class** held that certain as-applied constitutional challenges fall outside the scope of the guilty plea waiver rule. **Class** concerned the federal corollary to Wisconsin’s felon-in-possession statute. See 18 U.S.C.

² “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. CONST. amend. II.

³ **North Carolina v. Alford**, 400 U.S. 25 (1970).

§ 922(g)(1). In **Class**, the federal criminal defendant pled guilty to possessing a gun on the grounds of the United States Capitol, after unsuccessfully moving to dismiss the charge on Second Amendment and Due Process grounds. **Class**, 583 U.S. at 176. The District of Columbia Circuit Court of Appeals held that his guilty plea waived these constitutional challenges. **Id.** at 177-78. The Supreme Court reversed, holding that a guilty plea waives certain constitutional claims, including “relinquished rights includ[ing] the privilege against compulsory self-incrimination, the jury trial right, and the right to confront accusers,” government conduct before trial, and claims that “contradict the ‘admissions necessarily made upon entry of a voluntary plea of guilty.’” **Id.** at 182-83 (citation omitted). Yet, the Court held that claims that “challenge the Government’s power to criminalize ... conduct” survive a guilty plea. **Id.** at 181. Thus, Glaspie claims that a criminal charge for his conduct “is one which the State may not constitutionally prosecute.” **Id.** at 175 (citation omitted). He asserts that despite the guilty plea waiver rule, he may challenge the criminal charge as applied to him.

In **Jackson**, we rejected this argument, concluding that the constitutional challenge in **Class** may have been a facial challenge and “that **Class** does not preclude application of the guilty plea waiver rule as it pertains to [a defendant’s] as-applied constitutional challenge.” **Jackson**, 390 Wis. 2d 402, ¶9. Glaspie argues that it is incorrect to characterize the challenge in **Class** as facial. Because we are bound by **Jackson** as precedent, we do not address this argument. See **Cook v. Cook**, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997) (only the supreme court has authority to overrule, modify, or withdraw language from a published court of appeals decision). **Jackson** dictates that a guilty plea waives nonjurisdictional defects, including constitutional claims, except for facial constitutional challenges, because the latter are matters of

subject matter jurisdiction. 390 Wis. 2d 402, ¶8. We conclude that because Glaspie pled guilty, he waived his as-applied constitutional claim pursuant to state law.⁴

Therefore,

IT IS ORDERED that the judgment and order of the circuit court 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

⁴ Our supreme court did not adopt *Class v. United States*, 583 U.S. 174 (2018), when it decided *State v. Roundtree*, 2021 WI 1, ¶11, 395 Wis. 2d 94, 952 N.W.2d 765, on the merits: “[We] ... determine that Roundtree’s argument fails on its merits, and therefore we need not address whether he waived his constitutional challenge.” Thus, as noted, we are bound by *State v. Jackson*, 2020 WI App 4, ¶8, 390 Wis. 2d 402, 938 N.W.2d 639 (2019).