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WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT II

October 14, 2026

To:

Hon. Rebecca L. Persick
Circuit Court Judge
Electronic Notice

Andrew H. Morgan
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Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Jacob J. Wittwer
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You are hereby notified that the Court has entered the following opinion and order:

2025AP1264-CR

State of Wisconsin v. Brandon J. Hunter-Moncree
(L.C. #2018CF466)

Before Lazar, P.J., Gundrum, and LoCoco, 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).

Brandon J. Hunter-Moncree appeals a trial court order denying postconviction relief. He argues that the court applied the wrong legal standard to his presentencing motion for a new trial based on recantation evidence and erroneously rejected the recantation. He also challenges the court's treatment of evidence concerning State witness Marilyn Zamora. In his reply brief, Hunter-Moncree withdrew his remaining challenge alleging cumulative impact concerning the prosecutor's closing argument and the bullet evidence. 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.

BACKGROUND

The charges against Hunter-Moncree arose from a late-night home invasion in June 2018. Three masked men entered the victim’s residence after announcing “Sheboygan Police Department.” One invader repeatedly struck the victim with a handgun while the other men robbed the residence. The victim later identified Hunter-Moncree as the invader who pistol-whipped him based on the man’s voice, body size, and shape. The jury also heard testimony from Zamora and Alexandra Zastrow, both who knew Hunter-Moncree. Zamora testified that Zastrow told her that Hunter-Moncree was one of the perpetrators and had told her about hurting the victim. During her testimony, Zastrow denied telling Zamora anything about Hunter-Moncree hurting the victim. Ultimately, the jury found Hunter-Moncree guilty of impersonating a peace officer, armed burglary, substantial battery, each as party to a crime, and possession of THC.

Lewis Funches also testified at trial. Funches stated that Hunter-Moncree discussed the planned burglary with him and later described how he committed it. Funches further testified that Hunter-Moncree brought several guns to Funches’s residence after the invasion because Hunter-Moncree believed “the police were looking for him.” During a later search, police found a revolver purchased by Hunter-Moncree hidden in a floor vent at Funches’s residence.

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

Before sentencing, Hunter-Moncree moved for a new trial after Funches partially recanted. Funches denied that Hunter-Moncree admitted committing the offenses, but Funches did not recant his testimony concerning Hunter-Moncree hiding the gun. After an evidentiary hearing, the trial court found “that there was no actual agreement that Mr. Funches would receive consideration” in his own criminal case for testifying against Hunter-Moncree. The court further found that Funches recanted only after receiving a substantial sentence and being disappointed with the outcome of his case. Applying the framework for newly-discovered recantation evidence outlined in *State v. McCallum*, 208 Wis. 2d 463, 473-74, 561 N.W.2d 707 (1997), the court denied the motion for a new trial. Hunter-Moncree renewed his arguments in a postconviction motion, which the court also denied. Hunter-Moncree appeals.

DISCUSSION

Hunter-Moncree first argues that the trial court should have analyzed his motion under *State v. Kivioja*, 225 Wis. 2d 271, 592 N.W.2d 220 (1999), rather than *McCallum*. *Kivioja* applied the fair-and-just reason standard to a defendant’s presentencing request to withdraw a plea based on witness recantation. *Kivioja*, 225 Wis. 2d at 283-84. *McCallum* addressed newly-discovered recantation evidence in postsentencing postconviction relief. *McCallum*, 208 Wis. 2d at 473-76. Hunter-Moncree reasons that *Kivioja* controls because he filed his motion after trial but before sentencing.

We do not decide which framework would apply to a preserved claim in these circumstances because Hunter-Moncree forfeited the issue. The forfeiture rule requires a party to raise an issue in the trial court before seeking appellate review. *State v. Huebner*, 2000 WI 59, ¶¶10-11 & n.2, 235 Wis. 2d 486, 492, 611 N.W.2d 727. The rule gives the trial court an

opportunity to address an asserted error and prevents a party from obtaining appellate review by taking a different position after the proceedings below. *Id.*, ¶12.

Hunter-Moncree’s new trial motion expressly relied on the recantation standard stated in *McCallum* and *State v. McAlister*, 2018 WI 34, ¶¶31-33, 380 Wis. 2d 684, 911 N.W.2d 77. He did not ask the trial court to apply *Kivioja* until his later postconviction motion. The court did not err by applying the standard Hunter-Moncree asked it to apply when deciding the new trial motion. Thus, Hunter-Moncree forfeited his argument that the court should instead have applied *Kivioja*. See *Huebner*, 235 Wis. 2d 486, ¶¶10-11 & n.2.

Next, Hunter-Moncree argues that even under *McCallum*, the trial court erroneously rejected Funches’s recantation. A defendant seeking a new trial based on newly-discovered evidence must establish, among other requirements, that the evidence is not merely cumulative and that a reasonable probability exists that the evidence would produce a different result. *McCallum*, 208 Wis. 2d at 473. When the new evidence is a recantation, the defendant must also corroborate it with other newly-discovered evidence. *Id.* at 476. “Corroboration requires newly discovered evidence of both: (1) a feasible motive for the initial false statement; and (2) circumstantial guarantees of the trustworthiness of the recantation.” *McAlister*, 380 Wis. 2d 684, ¶58. A trial court’s decision whether to grant a new trial based on newly-discovered evidence rests within its discretion, and we uphold its factual findings unless clearly erroneous. *State v. Plude*, 2008 WI 58, ¶31, 310 Wis. 2d 28, 750 N.W.2d 42; *State v. Vollbrecht*, 2012 WI App 90, ¶18, 344 Wis. 2d 69, 820 N.W.2d 443.

The Record supports the trial court’s finding that Funches’s recantation lacked circumstantial guarantees of trustworthiness. Funches claimed that law enforcement had

promised favorable consideration in his own case in exchange for his testimony against Hunter-Moncree. The court found that no such agreement existed. Funches admitted that he was upset by the State's plea offer and the 15-year initial confinement sentence he ultimately received. He signed a statement recanting his testimony 16 days after his own sentencing. The victim further testified that he encountered Funches after Funches returned from sentencing. At that time, Funches asked the victim to tell Hunter-Moncree that Funches would "take back" his trial testimony.

Based on this evidence, the trial court found that Funches recanted because he was disappointed with his sentence, rather than because his trial testimony implicating Hunter-Moncree was false. The court was entitled to weigh those statements and assess the witness's credibility. See *McCallum*, 208 Wis. 2d at 488 (plurality opinion) (Abrahamson, C.J., concurring) ("[T]he [trial] court is in a much better position than an appellate court to resolve whether [a] witness is inherently incredible.").

We conclude the trial court's finding is not clearly erroneous, and that its conclusion that the recantation lacked circumstantial guarantees of trustworthiness reflect a proper exercise of discretion. Because Hunter-Moncree failed to provide corroborating evidence for the recantation, we need not address the trial court's additional determinations that the evidence was cumulative and that there was not a reasonable probability of a different result.

Hunter-Moncree next argues that the trial court improperly analyzed the evidence concerning Zamora as other-acts evidence instead of evidence of witness bias. However, Hunter-Moncree's brief fails to identify the particular legal claim for which he seeks relief, state the governing legal standard, or develop an argument applying the standard to the relevant facts.

We need not address arguments unsupported by legal authority or otherwise inadequately briefed. See ***State v. Pettit***, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992). We therefore decline to further review this issue.

Therefore,

IT IS ORDERED that the order of the circuit court 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