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DISTRICT II

November 11, 2026

To:

Hon. Gerad T. Dougvillo
Circuit Court Judge
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
Electronic Notice

Michael J. Conway
Electronic Notice

Olivia Garman
Electronic Notice

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

2025AP2281-CR State of Wisconsin v. Ryan D. Benson (L.C. #2021CF119)
2025AP2282-CR State of Wisconsin v. Ryan D. Benson (L.C. #2020CF1384)

Before Gundrum, Grogan, 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).

Ryan D. Benson appeals judgments of conviction, entered pursuant to a global plea agreement and on his guilty pleas, for felon in possession of a firearm, criminal damage to property, and battery to law enforcement. He also appeals orders denying postconviction relief. On appeal, Benson argues his conviction for felon in possession of a firearm is unconstitutional as applied to him. 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] We affirm.

Benson argues his conviction for felon in possession of a firearm, which was entered on his guilty plea, violates the Second Amendment as applied to him. The State responds, in part, that Benson waived his as-applied challenge by virtue of his guilty plea. We agree with the State.

The "guilty plea waiver rule … states that a guilty, no contest, or ***Alford***[2] plea 'waives all nonjurisdictional defects, including constitutional claims.'" ***State v. Jackson***, 2020 WI App 4, ¶8, 390 Wis. 2d 402, 938 N.W.2d 639 (citation omitted). "An exception to the guilty plea waiver rule states that 'a "facial" constitutional challenge [is] a matter of subject matter jurisdiction,' which cannot be waived, whereas an as-applied challenge is a nonjurisdictional defect that can be waived." ***Id.*** (alteration in original; citation omitted). Whether the guilty plea waiver rule applies is a question of law we review de novo. ***Id.***

Citing ***Class v. United States***, 583 U.S. 174 (2018), Benson argues the guilty plea waiver rule does not apply. However, we already rejected that argument in ***Jackson***. ***Jackson***, 390 Wis. 2d 402, ¶9. We concluded, "***Class*** does not preclude application of the guilty plea waiver rule as it pertains to [the defendant's] as-applied constitutional challenge." ***Id.*** We are bound by that conclusion. *See* ***Cook v. Cook***, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997).

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

[2] ***North Carolina v. Alford***, 400 U.S. 25 (1970).

Accordingly, we conclude Benson's as-applied constitutional challenge is barred by the guilty plea waiver rule. By pleading guilty, he waived his right to appeal the constitutionality of his conviction for felon in possession of a firearm as applied to him. *See* ***Jackson***, 390 Wis. 2d 402, ¶11.

Therefore,

IT IS ORDERED that the judgments and orders 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