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DISTRICT I

April 22, 2025

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

2022AP1552	State of Wisconsin v. Justin Dominique Hobbs (L.C. # 2015CF4601)
2022AP1553	State of Wisconsin v. Justin Dominique Hobbs (L.C. # 2016CF3467)
2022AP1554	State of Wisconsin v. Justin Dominique Hobbs (L.C. # 2016CF3471)

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

Justin Dominique Hobbs, *pro se*, appeals the orders denying his postconviction motion brought pursuant to WIS. STAT. § 974.06 (2023-24).¹ Based upon our review of the briefs and

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

record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We summarily affirm.

In February 2017, Hobbs pled guilty to numerous drug-related offenses and other related felonies. Prior to sentencing, Hobbs sent a letter to the circuit court indicating that he wished to withdraw his pleas because his trial counsel had allegedly promised that upon pleading guilty, he would be released on bail in return for his assistance to law enforcement in other investigations.

However, at a hearing held in July 2017, Hobbs informed the court that he did not want to withdraw his pleas, but rather wanted to continue with his sentencing. He confirmed that he was not pressured or coerced into making that decision. The court then imposed a global sentence of eleven years of initial confinement to be followed by six years of extended supervision.

Hobbs did not timely pursue postconviction relief from his judgments of conviction. Instead, he filed the *pro se* WIS. STAT. § 974.06 motion underlying this appeal on November 6, 2019. In that motion, he argued that his trial counsel was ineffective for inducing him to plead guilty by promising that he would be released on bail to assist law enforcement with ongoing investigations. Hobbs therefore claimed that he is entitled to withdraw his pleas to correct a manifest injustice.

The circuit court granted an evidentiary hearing on Hobbs' claims, and Hobbs retained counsel. The hearing was held over several dates: June 3, 2021; September 9, 2021; and November 29, 2021. The court heard testimony from witnesses including Hobbs; his trial

counsel; and officers involved in the “debriefing” where Hobbs offered his assistance to law enforcement.

The circuit court then ordered additional briefing. It subsequently gave an oral ruling on June 14, 2022, denying Hobbs’ postconviction motion. The written order regarding that ruling, filed on June 21, 2022, stated that Hobbs’ motion was denied “for reasons stated on the record” at the hearing on June 14. This appeal follows.

Hobbs, representing himself for this appeal,² argues that the circuit court erred in denying his postconviction motion. He maintains that he received ineffective assistance by his trial counsel and is entitled to plea withdrawal to correct a manifest injustice. A defendant seeking to withdraw his or her plea after sentencing “must prove, by clear and convincing evidence, that a refusal to allow withdrawal of the plea would result in ‘manifest injustice.’” *State v. Brown*, 2006 WI 100, ¶18, 293 Wis. 2d 594, 716 N.W.2d 906 (citation omitted). This court reviews the circuit court’s decision to deny a plea withdrawal motion under the erroneous exercise of discretion standard. *State v. Savage*, 2020 WI 93, ¶24, 395 Wis. 2d 1, 951 N.W.2d 838. Under this standard, we “examine the record to gauge whether the circuit court reached a reasonable conclusion based on proper legal standards and a logical interpretation of the facts.” *State v. Evans*, 2000 WI App 178, ¶7, 238 Wis. 2d 411, 617 N.W.2d 220.

Manifest injustice as it relates to plea withdrawal may be demonstrated by proving ineffective assistance of counsel. *State v. Taylor*, 2013 WI 34, ¶49, 347 Wis. 2d 30, 829 N.W.2d

² The notice of appeal was filed by Hobbs’ postconviction counsel; however, counsel subsequently moved to withdraw his representation of Hobbs, which was granted by this court on October 9, 2023.

482. In order to prove ineffective assistance of counsel, the defendant must demonstrate that trial counsel's performance was deficient and that the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

In denying Hobbs' postconviction motion, the circuit court presumably found that at least one prong of the *Strickland* test had not been met. See *id.* at 697. The court's reasoning for the decision is unknown, however, because the transcript from the June 14, 2022 oral ruling on the motion, where the circuit court provided its findings of fact and conclusions of law, is not included in the appellate record.

Put another way, this court reviews a circuit court's decision regarding an ineffective assistance claim as "a mixed question of fact and law." *State v. Carter*, 2010 WI 40, ¶19, 324 Wis. 2d 640, 782 N.W.2d 695. We will uphold the circuit court's factual findings—which include its "articulated assessments of [the] credibility and demeanor" of witnesses—unless they are clearly erroneous, while independently reviewing whether counsel's performance was deficient and whether the defendant was prejudiced. *Id.* Without the transcript from the oral ruling, we are unable to review the circuit court's decision for any errors in fact, nor can we review the legal standard applied by the court.

"It is the appellant's responsibility to ensure completion of the appellate record[.]" *State v. McAttee*, 2001 WI App 262, ¶5 n.1, 248 Wis. 2d 865, 637 N.W.2d 774. Here, it does not appear that this transcript for the June 14, 2022 oral ruling was ever requested by the appellant.

"We are bound by the record as it comes to us." *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26, 496 N.W.2d 226 (Ct. App. 1993). Furthermore, "when an appellate record is incomplete

in connection with an issue raised by the appellant, we must assume that the missing material supports the [circuit] court’s ruling.” *Id.* at 27. Therefore, we assume that the circuit court’s denial of Hobbs’ postconviction motion was reasonable and based on “proper legal standards and a logical interpretation of the facts.” *See Evans*, 238 Wis. 2d 411, ¶7.

In other words, we assume that the circuit court properly rejected Hobbs’ ineffective assistance claim and that, as a result, Hobbs failed to establish a manifest injustice with regard to his pleas. *See Taylor*, 347 Wis. 2d 30, ¶49; *Brown*, 293 Wis. 2d 594, ¶18. Therefore, the circuit court did not erroneously exercise its discretion in denying his motion for plea withdrawal. *See Savage*, 395 Wis. 2d 1, ¶45. Accordingly, we affirm the orders denying Hobbs’ postconviction motion.

For all the foregoing reasons,

IT IS ORDERED that the orders 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