



OFFICE OF THE CLERK  
**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](http://www.wicourts.gov)

**DISTRICT I**

December 17, 2014

To:

Hon. Jeffrey A. Wagner  
Circuit Court Judge  
Milwaukee County Courthouse  
901 N. 9th St.  
Milwaukee, WI 53233

John Barrett  
Clerk of Circuit Court  
Room 114  
821 W. State Street  
Milwaukee, WI 53233

Karen A. Loebel  
Asst. District Attorney  
821 W. State St.  
Milwaukee, WI 53233

Robert Probst  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

William Jones 473038  
Green Bay Corr. Inst.  
P.O. Box 19033  
Green Bay, WI 54307-9033

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

---

2012AP1048-CR

State of Wisconsin v. William Jones (L.C. #2008CF3060)

Before Curley, P.J., Brennan, J., and Thomas Cane, Reserve Judge.

William Jones, *pro se*, appeals from an updated restitution order and the resulting judgments.<sup>1</sup> Based upon our review of the briefs and record, we conclude at conference that this

---

<sup>1</sup> Based on Jones' brief cover, he is appealing a judgment and order imposing restitution entered by the Honorable Richard J. Sankovitz. Judge Sankovitz originally sentenced Jones and ordered restitution in December 2008. The time for appealing that order has long passed. Jones' notice of appeal, however, indicates he is attempting to challenge judgments—actually entered March 5, 2012—entered after the Honorable Jeffrey A. Wagner signed an updated restitution order at the request of the Department of Corrections.

case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>2</sup> The appeal is dismissed.

In 2008, Jones pled guilty to three of six counts of armed robbery with the threat of force as party to a crime. He was sentenced to twenty years' initial confinement and ten years' extended supervision on each count, to be served concurrently to each other but consecutive to any other sentence. Jones stipulated to the restitution amounts; the judgment of conviction indicates awards of \$1,835 to Bobby Simmons and \$1,650 to Eshetu Wodajo.

Judgments for the restitution amounts were docketed on March 5, 2012, after the circuit court signed an updated restitution order.<sup>3</sup> Jones appeals, and his fundamental complaints are that Wodajo “was not any victim in any one of the alleged robberies” and that trial counsel was ineffective for failing “to present to the [circuit] court accurate information about Wodajo.”<sup>4</sup>

However, Jones' issues are waived or forfeited. *See State v. Ndina*, 2009 WI 21, ¶¶28–30, 315 Wis. 2d 653, 761 N.W.2d 612. Jones had at least two prior postconviction challenges to the original judgment of conviction and sentence—one a motion for sentence modification that resulted in the circuit court declaring him eligible for the earned release and challenge incarceration programs, and one a successful challenge to the DNA surcharge. In neither case did Jones challenge the requirement that he pay restitution, nor did he file any motion after the updated restitution order and judgments were entered. *See State v. Huebner*, 2000 WI 59, ¶10,

---

<sup>2</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

<sup>3</sup> When the two judgments were entered on March 5, 2012, they reflected amounts of \$1,835 and \$1,556.88. The reason for the difference is unclear, but irrelevant.

<sup>4</sup> Jones' brief is entirely in capital letters; we have altered the formatting for ease of reading.

235 Wis. 2d 486, 611 N.W.2d 727 (issues must be preserved in circuit court; party raising issue on appeal must show issue was raised below). Likewise, any challenge to trial counsel's performance must be preserved by postconviction motion.<sup>5</sup> See *State ex rel. Rothering v. McCaughtry*, 205 Wis. 2d 675, 677–678, 556 N.W.2d 136 (Ct. App. 1996). Accordingly, we decline to consider Jones' unpreserved issues.<sup>6</sup>

IT IS ORDERED that appeal No. 2012AP1048-CR is summarily dismissed.

---

*Diane M. Fremgen*  
Clerk of Court of Appeals

---

<sup>5</sup> On appeal, although Jones challenges the order entered for the amount of restitution ordered payable to Simmons, he does not challenge the requirement that he pay restitution to Simmons.

<sup>6</sup> The State also argues that Wodajo—a security guard at one of the victimized loan stores—was in fact a victim and, thus, restitution was appropriate. See WIS. STAT. § 973.20(1r) (circuit court imposing sentence shall order defendant to make full or partial restitution “to any victim of a crime considered at sentencing”). The actual issue here is far simpler.

According to the sentencing transcript, the circuit court ordered \$1,835 paid to Simmons and \$1,650 to Ghulam Sarwar, a cab driver who was robbed and whose cab was damaged by bullets. The orders granting restitution to Wodajo, then, are the result of a scrivener's error, not an error in the circuit court's exercise of discretion. See *State v. Prihoda*, 2000 WI 123, ¶24, 239 Wis. 2d 244, 618 N.W.2d 857 (when conflict exists between oral pronouncement of sentence and written judgment, oral pronouncement controls); see also *State v. Perry*, 136 Wis. 2d 92, 114-15, 401 N.W.2d 748 (1987).

We decline to order a correction to the original judgment of conviction and subsequent orders, in part because it appears the funds have been paid and disbursed, so it is not readily apparent what effect such correction will have on Jones' obligations. The circuit court, though, is free to review the matter and order a correction if it deems such action appropriate. See *Prihoda*, 239 Wis. 2d 244, ¶27.

However, Jones should be aware that even if this clerical error had been timely noticed and corrected, he would have still been obligated to pay the \$1,650 to which he stipulated. That is, any error is simply in the identification of the person to whom that money was ultimately to be disbursed, not in the requirement that Jones pay it.