COURT OF APPEALS
DECISION
DATED AND FILED

June 25, 2015

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2014AP1707 **Cir. Ct. No. 2013CV7014**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

RALPH SASSON,

PLAINTIFF-APPELLANT,

V.

RYAN BRAUN, ONESIMO BALELO AND CREATIVE ARTISTS AGENCY, LLC,

DEFENDANTS-RESPONDENTS,

DOES 1 - 50 INCLUSIVE,

DEFENDANT.

APPEAL from orders of the circuit court for Milwaukee County: PAUL R. VAN GRUNSVEN, Judge. *Affirmed*.

Before Blanchard, P.J., Lundsten and Higginbotham, JJ.

¶1 PER CURIAM. Ralph Sasson appeals the circuit court's order dismissing his lawsuit with prejudice as a sanction for Sasson's bad faith and egregious misconduct in litigating his claims. Sasson also appeals the order denying his motion to vacate or reconsider the court's sanction order. We conclude that the circuit court reasonably exercised its discretion in imposing the sanction, and also that the circuit court properly denied Sasson's reconsideration motion. We affirm.

Background

¶2 Sasson brought suit, alleging a variety of claims and naming numerous defendants. The defendants that matter here, the respondents in this appeal, are professional baseball player Ryan Braun, Braun's agent, Onesimo Balelo, and the talent agency Balelo works for, Creative Artists Agency, LLC.[1] For purposes of our analysis, it is not important to know the nature of the claims or the underlying factual allegations, except to know that one of the claims against Braun was for libel.

¶3 The circuit court dismissed some of Sasson's claims for failure to state a claim upon which relief could be granted. In the Discussion section below, we describe in more detail what led the circuit court to dismiss Sasson's remaining claims as a sanction for Sasson's bad faith and egregious misconduct in litigating his claims.

[1] Balelo and Creative Artists filed a single brief. We refer to "Balelo," regardless whether we mean Balelo individually or Balelo and Creative Artists together.

¶4 According to Sasson's allegations, he was a law student when he commenced his action in 2013. Sasson represented himself throughout the circuit court proceedings, and continues to represent himself on appeal.

Discussion

¶5 "[I]t is well settled that we review a circuit court's decision to impose sanctions, as well as the particular sanction it chooses, for an erroneous exercise of discretion." ***Schultz v. Sykes***, 2001 WI App 255, ¶8, 248 Wis. 2d 746, 638 N.W.2d 604. "Accordingly, we will affirm the [circuit] court's decision if it examined the relevant facts, applied a proper standard of law, and reached a reasonable conclusion." ***Id.***

¶6 "Wisconsin appellate courts have affirmed the power of circuit courts to impose dismissal as a sanction for litigation misconduct." ***Id.***, ¶9. "Because dismissal is such a harsh sanction, however, the supreme court has held that dismissal is proper only when the plaintiff has acted in bad faith or has engaged in egregious misconduct." ***Id.***

¶7 Egregious misconduct means misconduct that is "'extreme, substantial and persistent,'" though not necessarily intentional. *See* ***Dane Cnty. DHS v. Mable K.***, 2013 WI 28, ¶70, 346 Wis. 2d 396, 828 N.W.2d 198 (quoted source omitted). Bad faith means that the noncomplying party "'intentionally or deliberately' delayed, obstructed, or refused to comply with [a] court order." ***Id.*** (quoted source omitted).

¶8 Rather than beginning our analysis by summarizing Sasson's many arguments, we instead start by summarizing some of the most pertinent findings of fact and legal conclusions from the circuit court's 16-page, single-spaced decision.

In the course of then discussing Sasson's arguments, we will refer back to these findings and conclusions, as well as to others that the circuit court made.

A. Circuit Court's Sanction Decision

¶9 As we have indicated, the circuit court imposed dismissal with prejudice as a sanction after concluding that Sasson engaged in bad faith and egregious misconduct during the course of this litigation. In broad strokes, the primary basis for the circuit court's decision was the court's determination that Sasson engaged in an overall pattern of discovery misconduct and other litigation misconduct, which included a repeated failure to follow court orders. Additionally, the court determined that Sasson engaged in a persistent lack of professionalism and failed to substantiate his libel allegations against Braun.

1. Overall Pattern Of Litigation Misconduct

¶10 When he commenced his action, Sasson publicly filed discovery requests asking for information that the circuit court characterized as "completely irrelevant to [Sasson's] claims and highly prejudicial to the defendants." For example, Sasson publicly filed requests for admissions regarding a party's alleged infidelities in every amorous relationship of that party.

¶11 At a hearing in January 2014, the circuit court warned Sasson that he should not continue filing discovery requests with the court, and that all parties must comply with procedural rules, including local rules that prohibit filing discovery requests. Approximately one week later, Sasson made an untimely filing that included an affidavit and exhibits with highly confidential information about the defendants. Sasson's filings prompted the court to issue a January 2014 standing order requiring, among other things, that Sasson submit all of his court

filings under seal, absent further court order or a party agreement to the contrary. Like the circuit court, we will sometimes refer to this January 2014 order as the "standing seal order."

¶12 Despite the standing seal order, Sasson submitted two filings in February 2014 that were not under seal. One of those filings included allegations that the circuit court characterized as "highly prejudicial and irrelevant."

¶13 Although the circuit court had admonished Sasson that discovery must be directed at relevant evidence, Sasson also continued to use the discovery process in an attempt to seek potentially embarrassing and irrelevant information about the defendants. In addition, Sasson failed to respond in good faith to the defendants' discovery requests, instead raising objections that the circuit court determined were "nonsensical and without any valid legal basis." Similarly, Sasson provided responses that the circuit court determined were "incomplete, evasive or non-responsive."

¶14 Sasson's inadequate discovery responses prompted a motion to compel, which the circuit court heard in April 2014. The court determined that Sasson's responses to date "were not meaningful responses" and ordered Sasson to provide meaningful responses within 20 days of the hearing date. After being afforded additional opportunities, Sasson failed to provide meaningful responses. The circuit court determined that Sasson instead "persist[ed] in responding to discovery requests with nonsensical or inapplicable objections."

¶15 In May 2014, in violation of one or more of the circuit court's prior orders, including the standing seal order, Sasson disclosed Balelo's confidential and sealed deposition testimony to a third party. The circuit court concluded that Sasson's disclosure of the deposition was intentional, that Sasson had knowingly

violated the court's orders, and that Sasson's disclosure supported a finding of bad faith. The circuit court further concluded that Sasson's ongoing refusal to cooperate in the discovery process and failure to comply with the court's discovery orders constituted egregious misconduct.

2. Lack Of Professionalism

¶16 The circuit court made a number of findings as to Sasson's ongoing lack of professionalism throughout the case. Adding to what we have already summarized, the circuit court found that Sasson's conduct with respect to the other parties' attorneys was "unprofessional, inappropriate and uncooperative," despite warnings by the court. For example, Sasson left a voice mail for one of the attorneys, referring to that attorney as "cupcake" and declaring that "You guys haven't answered jack dick." Both of the other parties' attorneys indicated that they had been unable to communicate with Sasson except on a written basis.

¶17 The circuit court also found that Sasson's deposition testimony was replete with expletives and informality. The court cited the following examples:

"It was like the biggest bullshit …."

"And that's when I was like 'Fuck, you know.'"

"[R.S.] is the only person who has helped me through the psychological trauma that I've experienced as a result of this asshole's—the way that he's treated me …."

3. Unsubstantiated Libel Allegations

¶18 Finally, the circuit court concluded that Sasson had alleged and maintained unsubstantiated libel allegations against Braun. The court found that,

despite the court's warnings to Sasson about maintaining unsubstantiated claims, Sasson continued throughout the litigation to maintain that Braun published defamatory information about Sasson even though Sasson never produced any evidence of such conduct by Braun. Rather, as already indicated, Sasson made baseless objections to Braun's discovery requests.

¶19 In summarizing its reasoning and decision to dismiss Sasson's lawsuit with prejudice as a sanction, the circuit court concluded as follows:

> The Court finds that Sasson's repeated failures to comply with court orders, discovery rules, and the applicable rules of civil procedure are extreme, substantial, and persistent. Given the number of times Sasson was warned that this Court would not tolerate these violations, Sasson's continued noncompliance was egregious and done in bad faith. Sasson's unjustifiable behavior threatens the integrity of the judicial process, and therefore warrants the most severe sanction available—dismissal of this case with prejudice. Imposing any lesser sanction would be prejudicial to the defendants, as they have already spent an unreasonable amount of time and money litigating over Sasson's improper conduct.

B. Sasson's Arguments

¶20 Sasson advances seven main arguments on appeal, with some of those arguments divided into sub-arguments. We address each of Sasson's main arguments and main sub-arguments below, and explain why none are persuasive. To the extent we do not address each of Sasson's many sub-arguments, those arguments are rejected as too undeveloped or meritless to warrant discussion. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (we need not consider inadequately developed arguments).

1. Sasson's Violation Of Court Orders By Disclosing Balelo's Deposition To A Third Party

¶21 One of the most significant factors in the circuit court's sanction decision was Sasson's disclosure of Balelo's deposition testimony to a third party. The circuit court determined that Sasson's disclosure violated two of the court's orders: the standing seal order and a subsequent oral order specific to Balelo's deposition.

¶22 Sasson does not dispute that he made the disclosure. He argues instead that the circuit court never ordered that the Balelo deposition be sealed. Thus, Sasson in effect argues that the circuit court's dismissal sanction was based on a wrong conclusion that the disclosure of the deposition testimony violated the court's orders. We disagree, and conclude that the circuit court reasonably relied on the standing seal order and its later oral order.

¶23 As to the standing seal order, we acknowledge that the order on its face does not unambiguously apply to disclosure of deposition testimony. However, we conclude that the record supports the circuit court's determination that Sasson's disclosure of Balelo's deposition testimony violated the standing seal order.

¶24 Even if the written standing seal order did not unambiguously prohibit disclosure of depositions, the circuit court's oral comments at the hearing that led to the written standing seal order sufficiently clarified that disclosing Balelo's deposition testimony to a third party would run afoul of the order the court planned to issue. For example, the circuit court referred repeatedly to case law providing that the public has no general right to examine discovery materials as those materials are being generated in the course of pretrial litigation, and the

court reminded Sasson that the court had previously warned Sasson about filing discovery with the court, thereby obviously making the material part of the public court record. Indeed, on appeal, Sasson does not dispute that during *his* deposition testimony he indicated that he thought deposition testimony was protected by the standing seal order.[2] Accordingly, the record supports the circuit court's view that Sasson knowingly disregarded the standing seal order. Such action by Sasson, in turn, supports a finding of bad faith or egregious misconduct.

¶25 We turn to the circuit court's subsequent oral order that was specific to Balelo's deposition, and we provide some additional background. As we have indicated, the circuit court concluded that Sasson's disclosure of Balelo's deposition testimony violated this order as well as the standing seal order.

¶26 Balelo's deposition was held in chambers and, at the outset, Sasson indicated on the record that he agreed the deposition would be "confidential" and "under seal." The circuit court then expressly ordered: "The Court will order the deposition transcript sealed." Focusing on the word "will," Sasson argues that this oral order was legally ineffective because "will" indicates that the order would not take effect until some future court action. This argument is frivolous. Courts routinely use "will" language when issuing oral orders, like the one here, that are plainly intended to be effective immediately.[3]

[2] Balelo's responsive brief points to Sasson's deposition testimony in which Sasson affirms that testimony taken in depositions is subject to the standing seal order. In reply, Sasson does not dispute that he made this admission, but argues that his subjective belief does not matter. We disagree.

[3] Examples include: 1) "The court will grant the request to have X removed from the courtroom." and 2) "I agree that the testimony is non-responsive and so will be stricken."

¶27 Sasson also appears to argue that the oral order was invalid because any order must be made with certain formalities, including a pronouncement in open court. However, the case law Sasson identifies in support is aimed at other concerns not present here. *See* ***Sheedy v. Popp***, 82 Wis. 2d 755, 771-72, 264 N.W.2d 565 (1978) (addressing execution of a category of dispositive orders); ***State ex rel. Hildebrand v. Kegu***, 59 Wis. 2d 215, 215-17, 207 N.W.2d 658 (1973) (addressing requirement that dispositive orders be reduced to writing for purposes of right to appeal); ***Yanggen v. Wisconsin Mich. Power Co.***, 241 Wis. 27, 30-33, 4 N.W.2d 130 (1942) (involving in-chambers orders issued without notice to parties).

¶28 Moreover, even if this case law could be applied here to require additional formalities in terms of the circuit court's oral order, there is still a problem for Sasson because he knowingly violated his agreement on the record that the deposition would be "confidential" and "under seal." Thus, regardless of the oral order, Sasson's action supports a finding of bad faith or egregious misconduct.

2. Sasson's Free Speech Rights

¶29 Sasson's next argument is an attempt to challenge the validity of the standing seal order on First Amendment grounds. As we understand it, Sasson argues that, if the standing seal order was invalid on constitutional grounds, then the circuit court could not have relied on any violation of that order as support for imposing a sanction.

¶30 Sasson argues that the standing seal order was an overbroad "prior restraint" or "gag order," in violation of his First Amendment rights. We reject this argument because, as we discuss in more detail below, we agree with Braun

and Balelo that the argument has been forfeited. *See* ***Schill v. Wisconsin Rapids Sch. Dist.***, 2010 WI 86, ¶45 & n.21, 327 Wis. 2d 572, 786 N.W.2d 177 (appellate courts generally do not address forfeited issues).[4]

¶31 Specifically, Sasson forfeited his argument by failing to object on First Amendment grounds at the time the circuit court heard arguments on and issued the standing seal order. Instead, Sasson affirmatively stated to the court at that time that he "ha[d] no problem with the ruling you just made, it's fine." *See* ***State v. Ndina***, 2009 WI 21, ¶29, 315 Wis. 2d 653, 761 N.W.2d 612 ("'forfeiture is the failure to make the timely assertion of a right'" (quoted source omitted)).

¶32 Sasson seems to tacitly acknowledge his failure to timely raise the First Amendment argument. Instead of arguing that he timely raised the argument, he now makes a categorical assertion that arguments raising constitutional errors cannot be forfeited.

¶33 Sasson's categorical assertion is incorrect, as demonstrated by Sasson's own cited authority. *See* ***State v. Saunders***, 2011 WI App 156, ¶29 n.5, 338 Wis. 2d 160, 807 N.W.2d 679 ("[S]ome rights are forfeited when they are not claimed at trial; a mere failure to object constitutes a forfeiture of the right on appellate review .... In contrast, … a criminal defendant has certain fundamental constitutional rights that may only be waived personally and expressly." (quoted sources and internal quotation marks omitted)); *see also* ***State v. Huebner***, 2000

[4] The parties make reference to related doctrines of waiver, consent, judicial estoppel, and invited error, but we think it makes the most sense to discuss Sasson's untimely First Amendment argument as a forfeiture issue. *See* ***State v. Ndina***, 2009 WI 21, ¶¶29-31, 315 Wis. 2d 653, 761 N.W.2d 612 (defining waiver and forfeiture and discussing how they differ). We need not decide whether one or more of the other doctrines might also apply.

WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727 ("Issues that are not preserved at the circuit court, even alleged constitutional errors, generally will not be considered on appeal.").

¶34 Lacking a more particular argument as to why Sasson's First Amendment challenge should be excepted from the forfeiture rule, we apply that rule and reject the argument on that basis.

¶35 Although we reject Sasson's First Amendment argument based on forfeiture, we choose to comment on the argument's apparent lack of merit. Sasson seems to base his First Amendment argument on his own overly broad interpretation of the standing seal order. In Sasson's words (not the order's), the order "prohibit[s] all commentary" on Sasson's court filings. Sasson relies on a part of the order stating that his court filings "shall not be made public *in any respect*" without court authorization or agreement by the parties (emphasis added).

¶36 While the order language that is quoted above might arguably be overly broad, the circuit court plainly did not interpret or apply the order to prohibit all "commentary" about Sasson's filings or his case. Rather, as we have said, the circuit court determined that Sasson violated the order by disclosing the content of Balelo's confidential, sealed deposition testimony to a third party.

¶37 It is true that the circuit court concluded that Sasson also violated the standing seal order in other ways, including by failing to file documents under

seal, but, again, this does not show that the circuit court interpreted and applied the order in a way that might infringe on Sasson's First Amendment rights.[5]

3. Sasson's Due Process Rights

¶38 As another constitutional attack on the standing seal order, Sasson argues that he was deprived of his right to due process because he received less than 48 hours' notice of Balelo's motion for the order and because he was not afforded an opportunity to file a written response. We reject Sasson's due process argument because, as with Sasson's First Amendment argument, he forfeited the argument by failing to timely raise it.

¶39 The situation Sasson now complains about was apparent at the time. Still, Sasson did not request additional time to file a written response or otherwise indicate that he was unprepared to deal with the issue. For that matter, even after the circuit court issued the standing seal order, Sasson did not promptly complain that he had not had an opportunity to fully argue the topic. The policy behind the forfeiture rule clearly applies and, thus, we reject Sasson's due process argument as forfeited.

¶40 As with Sasson's First Amendment argument, we pause briefly to comment on the apparent lack of merit to Sasson's due process argument. Sasson acknowledges that due process is a flexible concept that varies with the particular

[5] Sasson argues that an exchange he had with the circuit court on the record shows that the circuit court "acknowledged" that the standing seal order was overbroad in violation of the First Amendment. We disagree. In that exchange, which occurred several months after the circuit court issued the standing seal order and after Sasson first violated the order, the circuit court was acknowledging only that it understood the nature of the untimely First Amendment argument that Sasson was making. The court was not indicating agreement with the argument.

situation. *See, e.g.*, ***Zinermon v. Burch***, 494 U.S. 113, 127 (1990). Here, as Braun and Balelo point out, there is no dispute that Sasson had some notice of Balelo's motion for a protective order; that Sasson appeared at the January 29, 2014 hearing on the motion; and that Sasson presented argument in opposition to the motion.

¶41 Sasson's main premise for why this amount of process was insufficient seems to be that more process was due given the gravity of the underlying First Amendment rights at stake. However, although we have not resolved the underlying merit of Sasson's First Amendment argument, we have explained why we doubt that Sasson suffered any infringement on his First Amendment rights. It follows that we would be unlikely to accept Sasson's main premise here if we were to delve more deeply into the topic.

4. Sasson's Additional Discovery Misconduct

¶42 As we understand it, Sasson argues that the circuit court erred in several additional respects relating to the court's findings and conclusions regarding Sasson's discovery misconduct. As we now explain, we see no error based on Sasson's arguments.

a. Order To Compel

¶43 Sasson argues that the circuit court erroneously found that Sasson intentionally violated an order compelling him to respond to Braun's discovery requests. More specifically, Sasson argues that the circuit court incorrectly interpreted the order as requiring Sasson to produce whatever evidence Sasson possessed supporting his assertion that Braun *published* a libelous statement.

Sasson does *not* contend that he ever produced such evidence. Rather, Sasson simply asserts that the order imposed no such requirement. We disagree.

¶44 The order in question required Sasson to provide "meaningful responses" to Braun's discovery requests, and to produce documents in Sasson's possession that supported those responses. And, as Braun points out, Braun's discovery requests specifically asked Sasson to produce relevant documents in Sasson's possession "prepared or authored by Ryan Braun" or "sent by Ryan Braun to any person from 2009 to the present." Braun's discovery requests also asked Sasson to identify and produce all documents in Sasson's possession concerning the manner and medium through which Braun "published" allegedly false statements. Thus, the court's order, by directing Sasson to provide "meaningful responses" to Braun's discovery requests, directed Sasson to produce precisely the evidence that Sasson claims the order did not require.

b. Meaningfulness Of Sasson's Discovery Responses

¶45 Sasson asserts that his discovery responses were meaningful because his failure to produce documents was, in a sense, responsive. That is, according to Sasson, his failure to produce documents showed that he did not possess any responsive documents. However, Sasson provides no reason why, if this was true, he did not simply admit as much sooner. Instead, as the circuit court found, Sasson obstructed the discovery process by repeatedly raising frivolous objections to Braun's discovery requests.

c. Sasson's Discovery Objections

¶46 Sasson asserts that the circuit court erred in ruling that Sasson made meritless and improper discovery objections based on the attorney-client and

attorney-work-product privileges. According to Sasson, he was entitled to make such objections even though he was pro se.

¶47 Sasson fails to provide any authority or coherent reasoning as to why the circuit court's rulings on the privileges might have been wrong. Sasson claims he was preserving the objections for "posterity" and in case he retained an attorney in the future. We fail to discern the logic or legal significance of this "preserving" argument. Moreover, Sasson does not explain what types of ostensibly privileged information Braun or Balelo sought from him in discovery.

¶48 Sasson identifies one instance, in March 2014, in which the circuit court commented that Sasson "shouldn't be required to disclose his work product," and argues that this shows the court ruled inconsistently. However, this comment was not in reference to Sasson's objections to Braun's and Balelo's discovery requests. Rather, the circuit court made this comment in the context of denying Balelo's request that Sasson be required to submit *Sasson's deposition questions for Balelo* in advance. The circuit court reasoned that imposing such an advance disclosure requirement would be unfair to Sasson. We agree, and conclude that there is no inconsistency. Allowing a pro se litigant to protect this type of strategic "work product," to use the circuit court's words, is not inconsistent with rejecting that same litigant's general objections to discovery requests based on attorney-client privilege and attorney-work-product privilege grounds.

d. Discovery Stay Order

¶49 The final discovery-related argument that we address is Sasson's contention that it was not he, but *the circuit court*, that obstructed discovery because the circuit court issued a stay on further discovery in May 2014. Sasson complains about the stay order and about other limitations the court placed on

discovery. However, Sasson fails to provide any logical argument as to why the stay or other limitations would excuse Sasson's misconduct. We understand that Sasson may not agree with the circuit court's underlying findings of fact that justified the stay order and other limitations, but Sasson fails to point to evidence in the record demonstrating that those findings were clearly erroneous. *See* ***Royster-Clark, Inc. v. Olsen's Mill, Inc.***, 2006 WI 46, ¶¶11-12, 290 Wis. 2d 264, 714 N.W.2d 530 (setting forth standard of review for findings of fact).

¶50 Sasson seems to argue that the circuit court's stay order and other discovery limitations are what prevented Sasson from obtaining the evidence he needed to support the publication element of his libel claim against Braun. However, we see no merit to this argument. Sasson had months to conduct discovery before the circuit court's stay order, and Sasson fails to explain how the stay order or any other discovery limitation prevented him from obtaining such evidence from Braun or Balelo if they possessed it.

¶51 In sum, we reject all of Sasson's discovery-related arguments. We now turn our attention to Sasson's remaining arguments.

5. Sasson's Misuse Of The Legal Process

¶52 In imposing the dismissal sanction, the circuit court determined that Sasson's disclosure of Balelo's deposition testimony to a third party was a misuse of the legal process. The circuit court found that Sasson made the disclosure with no apparent purpose other than to disparage Balelo to a third party, that Sasson mischaracterized some of Balelo's testimony, and that Sasson offered to tell the third party everything Sasson knew about Balelo.

¶53 Sasson argues that the circuit court erred because his inquiry to the third party was an attempt to obtain information relevant to Sasson's claims. We are not persuaded.

¶54 Even if the third party had relevant information, this does not explain why Sasson needed to *disclose* Balelo's deposition testimony to the third party, let alone why Sasson *mischaracterized* some of that testimony to the third party or offered to disclose everything else Sasson knew about Balelo. Thus, we conclude that, even if the third party had relevant information, the circuit court reasonably found that Sasson misused the legal process.

¶55 Moreover, Sasson's explanation of why the third party had relevant information fails to connect the dots into a coherent whole. We agree with the circuit court that the mere possibility that the third party might have been able to cast doubt on some aspect of Balelo's credibility is not enough to show that Sasson was, in good faith, seeking relevant information.

6. Circuit Court's Bad Faith Determination

¶56 Sasson makes a blanket argument that the circuit court unreasonably inferred that Sasson acted intentionally and in bad faith. This argument rests in significant part on other arguments that we have already rejected. We do not revisit those arguments.

¶57 Beyond what we have already addressed, Sasson appears to take issue with some of the circuit court's extensive underlying findings of fact. However, Sasson fails to show that any of these findings were clearly erroneous. *See* ***Royster-Clark***, 290 Wis. 2d 264, ¶¶11-12.

¶58 At most, Sasson identifies one factual error that, we conclude, is unimportant and not really error at all. Specifically, the circuit court at one point in its sanction decision gave examples of the many times that the court warned Sasson about his conduct and, incongruously, cited warning examples given *after* the instance of misconduct the court was addressing. However, it is obvious from the circuit court's other findings, and its decision as a whole, that the incongruous warning examples are inconsequential. There is no doubt that Sasson repeatedly failed to heed court warnings on multiple occasions *after* being given warnings on multiple occasions. Sasson does not, and cannot, seriously argue otherwise.

7. Motion To Vacate Or Reconsider

¶59 Finally, Sasson argues that the circuit court erroneously exercised its discretion in denying his motion to vacate or reconsider the sanction order. Sasson asserts that the circuit court was required to apply WIS. STAT. § 806.07(1)(h) (2013-14), but instead applied a different, incorrect standard.[6] Sasson argues that we should independently review the record to determine whether there was a reasonable basis to deny his motion under the correct standard.

[6] WISCONSIN STAT. § 806.07 (2013-14) provides:

> **Relief from judgment or order. (1)** On motion and upon such terms as are just, the court, subject to subs. (2) and (3), may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:
>
> ….
>
> (h) Any other reasons justifying relief from the operation of the judgment.

¶60 Applying the standard that Sasson asks us to apply, we see no grounds to conclude that the circuit court's denial order lacked a reasonable basis. As Sasson states in his appellate briefing, "[i]n his motion, Sasson posited nearly the same arguments" that he makes on appeal. We have already rejected those arguments.

Conclusion

¶61 For the reasons stated above, we affirm the circuit court's order imposing the dismissal sanction against Sasson and the circuit court's order denying Sasson's motion to vacate or reconsider the sanction order.

By the Court.—Orders affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2013-14).