COURT OF APPEALS
DECISION
DATED AND FILED

August 20, 2015

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2015AP51-CR **Cir. Ct. No. 2014CM1929**

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

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

SUSAN P. RESCH,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dane County: WILLIAM E. HANRAHAN, Judge. *Affirmed*.

¶1 BLANCHARD, J.[1] Susan Resch was convicted of disorderly conduct. Resch appeals, "asking [this] court to dismiss this case based on lack of

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

confrontation of witnesses against her and lack of compulsory process to have witnesses appear on her behalf and lack of an adequately performed investigation." For the following reasons, I affirm.

¶2 Resch fails to sufficiently develop any legal argument based on concrete references (much less based on proper citations) to pertinent portions of the record and the application of governing legal authority, and I reject her arguments on that basis. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (court of appeals may decline to review inadequately developed issues). Any other approach would require me to abandon my neutral judicial role by becoming Resch's advocate.

¶3 I now briefly address one aspect of Resch's failure to develop a legal argument. It is only one of the significant problems with Resch's brief, but it illustrates the problems that arise from inadequate briefing. Resch does not demonstrate that she preserved for appeal any argument she now attempts to make by giving the circuit court an opportunity to address the argument first. *See* ***State v. Ndina***, 2009 WI 21, ¶30, 315 Wis. 2d 653, 761 N.W.2d 612 (forfeiture rule allows circuit courts to avoid or correct errors, gives parties and circuit court notice of issues and fair opportunities to address objections, encourages diligent preparation for and conduct of trials, and prevents "'sandbagging'" of opponents (quoted source omitted)). Resch now suggests that injustice resulted from failure of witnesses to respond to subpoenas and from the use of alleged hearsay in the criminal complaint, but she fails to explain and support an argument that she gave the circuit court a sufficient opportunity to avoid committing an error related to either topic. She alludes to the court denying her request to postpone the trial in order to give her additional time to address witness issues. However, she does not now state what valid basis she provided to the circuit court in a timely manner that

should have convinced the court, based on all pertinent factors, that it would not be a reasonable exercise of the court's discretion to continue with the trial as scheduled. Nor does Resch now indicate how she gave the circuit court an opportunity to consider her hearsay objection.

¶4 Resch represented herself before the circuit court and again on appeal. As the State recognizes, some allowances are appropriate for pro se litigants. However, Resch is not entitled to have this court construct potentially viable legal arguments in her favor, essentially working from scratch based on the record. And I note that this court allowed Resch two chances to submit an adequate brief, which is one more chance than most appellants have.

¶5 An independent, sufficient reason to affirm is that, by failing to submit a reply brief, Resch has in effect conceded the State's arguments that she (1) fails to provide adequate factual support for whatever confrontation clause violation she means to allege, and (2) improperly attempts to apply the rules that prohibit the use of hearsay in evidence that is offered for its truth in *court proceedings* to the content of filings summarizing allegations arising from *out-of-court investigations*. *See* ***Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.***, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979).

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.