

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 14, 2013

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2012AP672

Cir. Ct. No. 2007FA275

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

IN RE THE PATERNITY OF JOHN K. BOROWSKI, III:

JOHN K. BOROWSKI,

PETITIONER-APPELLANT,

v.

VALERIE M. KUFRIN F/K/A VALERIE MARIE GULLICKSON,

RESPONDENT-RESPONDENT.

APPEAL from orders of the circuit court for Ozaukee County:
SANDY A. WILLIAMS, Judge. *Affirmed.*

Before Brown, C.J., Reilly and Gundrum, JJ.

¶1 PER CURIAM. John Borowski appeals *pro se* from circuit court orders¹ denying his petition to waive fees and costs. The circuit court found that he was not indigent and ordered him to pay guardian ad litem fees at the rate of \$75 per month. On appeal, Borowski argues that he is indigent and that the circuit court should not have ordered him to pay guardian ad litem fees. We disagree and affirm.

¶2 Borowski and Valerie Kufirin have had a long-running dispute regarding matters involving their children. We recite only those facts necessary to this appeal.

¶3 On February 6, 2012, Borowski filed a petition to waive fees and costs and an affidavit of indigency. In that document, he reported gross income of \$965 every two weeks, ownership of a \$3800 boat, and a monthly mortgage payment of \$1560. In the February 6, 2012 order from which Borowski appeals, the court found that Borowski was not indigent. To support this finding, the court cited Borowski's \$310,000 home mortgage, the monthly mortgage payment, and the boat. The court responded to Borowski's claim that the court found him indigent in a January 10, 2011 order, which authorized the county to advance fees for a psychological exam. The court stated: "Though [Borowski] indicates the court found him indigent on 1-10-2011 and authorized the county to advance fees for a psychological exam, the court merely found at that time he didn't have the cash flow to pay the fee up front but also found he was to reimburse the county."

¹ The orders are dated February 6, 2012, and February 27, 2012.

¶4 On February 13, 2012, Borowski moved the circuit court to reconsider its indigency decision. He argued that WIS. STAT. § 767.407(6) (2011-12)² precluded the circuit court from ordering an indigent person to pay guardian ad litem fees.³ In his reconsideration motion, Borowski updated his financial information, alleging that he still owned the boat but that he owed more on his home than it was worth. He also alleged various other financial obligations. The court held a hearing on February 23, 2012 to address Borowski's failure to pay guardian ad litem fees and review his affidavit of indigency.⁴ In the February 27, 2012 order from which Borowski appeals, the court found that Borowski was not indigent and ordered him to pay \$75 per month in guardian ad litem fees. Borowski appeals.

¶5 Borowski raises numerous challenges to the circuit court's orders. We are not required to address appellate arguments in the manner in which a party has structured the issues. *See State v. Waste Mgmt. of Wis., Inc.*, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978). To the extent we do not address one of Borowski's arguments, that argument is deemed rejected. *Id.* ("An appellate court is not a performing bear, required to dance to each and every tune played on an appeal.").

¶6 The state of the record on appeal drives our decision in this case. Borowski relies upon the January 10, 2011 order as proof that he was indigent. However, that order is not included in the record on appeal and neither is any

² All subsequent references to the Wisconsin Statutes are to the 2011-12 version.

³ The circuit court found that Borowski was not indigent, so WIS. STAT. § 767.407 does not apply.

⁴ The record does not include a transcript of the February 23, 2012 hearing.

contemporaneous explanation of the circuit court's findings or reasons for that order. It was Borowski's responsibility to insure that the record contained the documents necessary to support his appellate arguments. *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993). We must rely upon the record before us. On the question of what the court decided in January 2011 regarding indigency, we rely solely upon the court's February 6, 2012 findings in rejecting Borowski's affidavit of indigency.

¶7 We accept the circuit court's February 6, 2012 statement that it did not find Borowski indigent in January 2011 in relation to the fees for a psychological examination. Rather, the court found that Borowski had a cash flow problem but could repay guardian ad litem fees advanced by the county. Therefore, we affirm the February 6 order.

¶8 In the absence of a transcript of the February 23, 2012 reconsideration hearing out of which Borowski's \$75 monthly guardian ad litem fee obligation arose, we must assume that the circuit court's findings are supported by the record. *Suburban State Bank v. Squires*, 145 Wis. 2d 445, 451, 427 N.W.2d 393 (Ct. App. 1988). Therefore, we affirm the February 27 order.

By the Court.—Orders affirmed.

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

