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DISTRICT IV

November 13, 2025

To:

Hon. Barbara W. McCrory
Circuit Court Judge
Electronic Notice

Jennifer Eileen Annen
Electronic Notice

Amanda Nelson
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Diana M. Calvert
Electronic Notice

David J. Jackson
5559 North Sable Drive
Milton, WI 53563

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

2024AP2512

State of Wisconsin v. David J. Jackson (L.C. # 2016FA499)

Before Blanchard, Kloppenburg, and Nashold, JJ.

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).

This is a family court matter with an extensive history involving David Jackson and Diana Calvert. Both parties represent themselves on appeal. Jackson appeals two circuit court orders: the first was entered on September 21, 2017 (“the first challenged order”), which addressed legal custody, physical placement, and child support; the second was entered on November 22, 2024 (“the second challenged order”), which came in response to Jackson’s motion to modify custody and placement based on a substantial change in circumstances and which defined periods of placement. Based on our review of the briefs and record, we conclude

at conference that this case is appropriate for summary disposition. For the following reasons, we summarily affirm the two orders. *See* WIS. STAT. RULE 809.21 (2023-24).¹

Only limited details from the extensive history in this case are necessary as background, given the fact that we resolve this appeal based on Jackson’s failure to ensure a complete record relevant to either of the two orders that he challenges.

The pertinent facts regarding the first challenged order are the following. The circuit court entered the order after an evidentiary hearing on June 30, 2017, at which multiple exhibits were admitted by the court, and a hearing on July 31, 2017, at which the court heard oral arguments by the parties and made an oral ruling. But the transcript for the June 30 evidentiary hearing in the record on appeal is only partial, reflecting what is obviously only a small fraction of the proceedings that day.

The pertinent facts regarding the second challenged order are the following. The circuit court entered the second challenged order after evidentiary hearings on April 22 and 23, 2024, and on September 17, 2024, and making an oral ruling on November 18, 2024. But while the record contains a transcript of the court’s November 18 oral ruling, there are no transcripts whatsoever of the evidentiary hearings.

Calvert asserts, and Jackson does not refute, that “the missing transcripts include testimony from multiple witnesses—including behavioral therapists, the Guardian ad Litem, and both parties.”

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

“It is the appellant’s responsibility to ensure completion of the appellate record and 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.” *Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381 (citation omitted); *see also* WIS. STAT. RULE 809.11(4). Further, on appeal, “it is the burden of the appellant to demonstrate that the [circuit] court erred.” *Gaethke*, 376 Wis. 2d 448, ¶36 (alteration in original; quoted source omitted). This burden applies to all litigants, including those without attorneys. *See Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (“Pro se appellants must satisfy all procedural requirements, unless those requirements are waived by the court.”). On the issues that Jackson raises on appeal, this court is not able to review large amounts of potentially relevant evidence and we must assume that any missing material supports each of the challenged orders.

Jackson argues that the circuit court errors that he purports to identify in this appeal present purely legal issues that do not depend on the evidence, and therefore the missing transcripts are not necessary in this appeal. This argument ignores the nature of the contentions that he makes in his brief-in-chief on appeal. It is true that he evokes legal principles at times, but his arguments also unmistakably rest on the premise that the court failed to properly account for the evidence presented to the court. Put differently, his brief-in-chief fails to clearly develop any standalone issue of law that could have no relationship to the underlying facts of the case.

Separately, in an unclear argument, Jackson refers to the ability of parties to an appeal to move to supplement the record. Whatever he precisely intends to argue along these lines, as we have explained, we assume that missing elements of the record support the circuit court’s decision, and we reject Jackson’s arguments for that reason. In connection with this appeal,

Jackson filed a statement on transcript in which he represented: “All transcripts necessary for this appeal are already on file and satisfactory arrangements with the court reporter(s) for service of a copy of the transcript(s) on the other parties have been made.”

In a motion filed in this court, Calvert takes the position that Jackson’s appeal is, “in its entirety,” “frivolous and procedurally defective,” and she requests that this court order “sanctions” “under WIS. STAT. §§ 802.05 and 809.83(1)” and costs and expenses “pursuant to WIS. STAT. §§ 802.05(3) and 809.25,” and she further seeks orders that Jackson obtain “leave of Court before filing any further motions, appeals, or requests related to the 2017 or 2024 custody and placement orders, absent a showing of good cause and a complete appellate record” and that he “provide certified transcripts of all trial and evidentiary hearings for any future appellate filings, as required by WIS. STAT. § 809.11(4).”

We decline to order any of this relief, although we recognize that Calvert is entitled to the ordinary costs resulting from the fact that we affirm the circuit court. *See* WIS. STAT. § 809.25(1). It is not clear that the entire appeal is frivolous. *See Thompson v. Ouellette*, 2023 WI App 7, ¶¶3, 30, 406 Wis. 2d 99, 986 N.W.2d 338. We decline to issue the orders that Calvert seeks because she has adequate legal remedies at her disposal to counter inadequate or abusive litigation by Jackson in the future.

Therefore,

IT IS ORDERED that the September 21, 2017 order and the November 22, 2024 order are affirmed.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals