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DISTRICT I

November 25, 2025

To:

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Electronic Notice

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

2024AP1527

James A. Trandel v. Labor and Industry Review Commission
(L.C. # 2023CV3790)

Before Colón, P.J., Donald, and Geenen, 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).

James A. Trandel appeals an order of the circuit court which dismissed his action for lack of competency. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).¹ For the following reasons, we dismiss the appeal as moot.

In May 2023, Trandel sought judicial review of a decision of the Labor and Industry Review Commission (LIRC), which affirmed a Department of Workforce Development (DWD)

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

determination that Trandel was ineligible for unemployment insurance. DWD determined that as a recipient of social security disability insurance (SSDI), Trandel was prohibited from receiving unemployment benefits pursuant to WIS. STAT. § 108.04(12)(f). LIRC upheld DWD's determination and Trandel sought judicial review in the circuit court, arguing that § 108.04(12)(f) was unconstitutionally discriminatory under the federal Workforce Innovation and Opportunity Act and the Americans with Disabilities Act. The circuit court dismissed the action for lack of competency, finding that Trandel failed to comply with the requirements of WIS. STAT. § 893.825 because he did not serve his pleadings upon the proper parties. Specifically, the circuit court stated that the statute required service upon the attorney general, the speaker of the assembly, the president of the senate, and the senate majority leader.² Trandel appealed.

While Trandel's appeal was pending, a class action was also pending in the United States District Court for the Western District of Wisconsin. As relevant to this appeal, the complaint in the federal action sought a determination that the denial of Wisconsin unemployment insurance

² WISCONSIN STAT. § 893.825 states:

(1) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, the *attorney general shall be served with a copy of the proceeding and is entitled to be heard.*

(2) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, or if the construction or validity of a statute is otherwise challenged, *the speaker of the assembly, the president of the senate, and the senate majority leader shall also be served with a copy of the proceeding and the assembly, the senate, and the joint committee on legislative organization are entitled to be heard.*

(Emphasis added.)

benefits to SSDI recipients under WIS. STAT. § 108.04(12)(f) was unconstitutionally discriminatory. The federal court ultimately issued four orders during the pendency of this appeal: (1) a determination that § 108.04(12)(f) was violative of the Americans with Disabilities Act and the Rehabilitation Act; (2) a class certification for individuals who applied for unemployment benefits in Wisconsin after September 7, 2015, but were denied benefits because they received SSDI benefits; (3) a preliminary injunction and declaration enjoining the DWD from enforcing § 108.04(12)(f); and (4) an order on remedies requiring DWD pay out regular unemployment benefits to individuals who applied for unemployment insurance benefits before July 30, 2025, but were denied benefits because they received SSDI benefits. That order also set out procedures for DWD to follow in making those payments. *See Bemke v. Pechacek*, No. 21-cv-560-wmc, 2025 WL 1646984 (W.D. Wis. June 11, 2025). It is undisputed that Trandel is a member of the class certified in *Bemke*.

Following the federal court’s orders, this court ordered the parties to provide supplemental briefing explaining what effect, if any, the federal orders had on Trandel’s pending appeal before this court. Trandel responded that this court should decide the competency issue. DWD and LIRC both argued that the federal orders rendered Trandel’s appeal moot.

“An issue is moot when its resolution will have no practical effect on the underlying controversy.” *Portage Cnty. v. J.W.K.*, 2019 WI 54, ¶11, 386 Wis. 2d 672, 927 N.W.2d 509 (citation omitted). “Appellate courts generally decline to reach moot issues, and if all issues on appeal are moot, the appeal should be dismissed.” *Id.*, ¶12. However, we may choose to address moot issues in “exceptional or compelling circumstances.” *Id.* (citation omitted). Exceptional circumstances include: (1) if the issue is of great public importance; (2) if the issue involves the constitutionality of a statute; (3) if the situation arises so often that a definitive decision is

essential; (4) if the issue is likely to arise again and should be resolved by the court to avoid uncertainty; or (5) if the issue is capable and likely of repetition and yet evades review. *Id.*

DWD and LIRC assert that Trandel's appeal is moot because Trandel is now eligible to receive the unemployment benefits he initially sought and DWD will stipulate to the same. Trandel does not dispute that he is now eligible to receive unemployment benefits; rather, he contends that the issues he raised on appeal are unrelated to benefit eligibility because they concern the application of WIS. STAT. § 893.825 to court review of unemployment cases. We disagree with Trandel. Trandel's state court action stemmed from the denial of his unemployment benefits on the grounds that WIS. STAT. § 108.04(12)(f) was unconstitutionally discriminatory. The federal court has since determined that § 108.04(12)(f) is indeed unconstitutional and it is undisputed that Trandel is now eligible to receive the applied-for unemployment benefits. DWD informed this court that it will stipulate to Trandel's eligibility and distribute his benefits. Accordingly, we need not address whether the circuit court appropriately dismissed Trandel's action for lack of competency. Addressing the competency issue will have no practical effect on the underlying controversy. *Portage Cnty.*, 386 Wis. 2d 672, ¶11.

For the foregoing reasons, Trandel's appeal is dismissed as moot.

Therefore,

IT IS ORDERED that the order is summarily dismissed as moot. *See* WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals