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DISTRICT III

March 31, 2026

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
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Chelsea Renee McDonald
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You are hereby notified that the Court has entered the following opinion and order:

2024AP1910 Jeffrey David McDonald v. Chelsea Renee McDonald
(L. C. No. 2020FA9)

Before Stark, P.J., Hruz, and Gill, 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).

Jeffrey McDonald appeals from an order that: (1) denied his motion for relief from a prior order requiring him to make a lump sum payment to his ex-wife, Chelsea McDonald; and (2) imposed additional requirements for the payment of interest if the lump sum were not paid by a specified date. 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] We

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

further conclude that the circuit court reasonably exercised its discretion on both decisions, and we therefore affirm.

Following a series of motions, mediations, and proceedings that are not directly relevant to this appeal, the parties stipulated that Jeffrey would pay Chelsea $50,000 in settlement of postdivorce disputes over child support and variable expenses. The parties could not agree on how the $50,000 would be paid, so they further stipulated that the circuit court would make that determination. After hearing from Jeffrey, Chelsea, and the Barron County Child Support Agency, the court made an oral ruling on February 19, 2024, which was reduced to a written order on March 12, 2024, requiring Jeffrey to "obtain a loan, credit card, or otherwise come up with the money necessary" to make a lump sum payment of the entire $50,000 on or before July 1, 2024. The March 12 order was silent on what would happen if Jeffrey failed to make the payment on time.

On June 14, 2024, Jeffrey moved for relief from the March 12 order under WIS. STAT. § 806.07. At an evidentiary hearing held on June 26, 2024, Jeffrey testified that he had unsuccessfully applied for $50,000 loans at four banks. He submitted into evidence letters from three of those banks citing various reasons for the denials—including information obtained from a consumer reporting agency, excessive obligations in relation to his income, his providing conflicting information, the lack of collateral, an inability to verify income, and the lack of supporting tax return documents. Jeffrey further testified that he had been unable to secure credit cards to pay the $50,000, that he did not own any real estate, and that he did not have any investment or retirement accounts. In addition, Jeffrey asserted that his income had been reduced by $1,500 a month since the entry of the most recent child support order in the case, but he did not provide any wage statements or an updated financial disclosure form.

On cross-examination, Jeffrey acknowledged that he had given up his United States residency because it conflicted with his residence in Gabon, where he had worked since September 2022, but that he had only applied to American banks for loans and credit cards. He did not apply for any loans in amounts smaller than $50,000. When asked how he was able to afford to hire an attorney and to take vacations with his family while not making any payments on the $50,000 debt, his response was that he was "doing [his] best" to pay everything down. He further testified that he had used the proceeds of real estate he had recently sold to pay off debt.

In response to additional questioning from the circuit court, Jeffrey explained that he did not have United States tax returns available since 2022 because he had not been paying United States taxes while working abroad. He asserted that he could not get loans from Gabon banks because Gabon was a third-world country whose banks did not work on credit systems. He had not applied for loans or credit from any of the French banks operating in Gabon. He used United States mailing addresses on his loan applications to the United States banks. He did not receive written denials to his credit card applications, just nonresponses from online applications. When Jeffrey followed up with the United States banks that had denied him loans, he was informed that he did not qualify because he is not a United States permanent resident.

The circuit court stated that it viewed Jeffrey's efforts to obtain loans or credit to be "miniscule and completely insufficient," amounting to a "concerted effort … to not only avoid paying child support but to continue to drag this out as long as possible." The court emphasized that Jeffrey had made no effort to seek loans from international banks doing business in Gabon, where he resided; that he had not sought to obtain credit cards with lower limits than $50,000; and that he had used the proceeds from the sale of a house to pay off other debt rather than this court-ordered debt.

The circuit court denied Jeffrey's request to make $500 monthly installments on the $50,000 debt, but it extended the time for Jeffrey to pay the debt in full to October 1, 2024. The court further ordered that interest at the rate of six percent per year would begin accruing as of the original deadline of July 1, 2024.

On appeal, Jeffrey contends that the circuit court erroneously exercised its discretion by failing to apply the legal standard for relief under WIS. STAT. § 806.07 to the facts of record. More specifically, he contends that he was entitled to relief: (1) based upon newly discovered evidence under § 806.07(1)(b); (2) because it was no longer equitable that the judgment have prospective application under § 806.07(1)(g); and (3) under the catchall provision in § 806.07(1)(h).[2] We review a court's discretionary decision to reopen a judgment under § 806.07 with great deference and will uphold it as long as it was supported by a reasonable basis. ***Sukala v. Heritage Mut. Ins.***, 2005 WI 83, ¶8, 282 Wis. 2d 46, 698 N.W.2d 610.

The elements for relief based upon newly discovered evidence are that the evidence came to the moving party's attention after trial, the moving party's failure to discover the evidence earlier was not due to lack of diligence, the evidence is material and not cumulative, and the evidence would probably change the result. WIS. STAT. § 805.15(3). Relief based upon an inequitable prospective application of a judgment or order is appropriate when changed circumstances would make compliance with that judgment or order substantially more onerous, when the judgment or order has become unworkable due to unforeseen obstacles, or when

[2] We note that Jeffrey did not specify any of these subdivisions in his circuit court motion for relief.

enforcement of the judgment or order would be contrary to the public interest. ***DOC v. Kliesmet***, 211 Wis. 2d 254, 261, 564 N.W.2d 742 (1997).

The catchall provision under WIS. STAT. § 806.07(1)(h) should be employed only when extraordinary circumstances are present, taking into account: (1) "whether the judgment was the result of the conscientious, deliberate and well-informed choice of the claimant"; (2) "whether the claimant received the effective assistance of counsel"; (3) whether there was any judicial consideration of the merits and whether the interest in deciding the case on the merits outweighs the interest in finality of judgments; (4) "whether there [was] a meritorious defense to the claim"; and (5) "whether there are intervening circumstances making it inequitable to grant relief." ***Miller v. Hanover Ins.***, 2010 WI 75, ¶36, 326 Wis. 2d 640, 785 N.W.2d 493 (citation omitted).

As a threshold matter, we observe that our ability to evaluate Jeffrey's claims for relief based upon newly discovered evidence or under the catchall provision is hampered by Jeffrey's failure to arrange for the inclusion of the transcript from the February 19, 2024 hearing in the record. For example, we are unable to tell whether Jeffrey raised, at that hearing, the potential difficulties he might have obtaining loans or credit from United States banks while he was working in Gabon or the fact that he did not have any investment or retirement accounts. It is the appellant's responsibility to provide this court with an adequate record. *See* ***Fiumefreddo v. McLean***, 174 Wis. 2d 10, 26, 496 N.W.2d 226 (Ct. App. 1993). In the absence of a complete record, we will assume "that every fact essential to sustain the trial court's decision is supported by the record." ***Fischer v. Wisconsin Patients Comp. Fund***, 2002 WI App 192, ¶6 n.4, 256 Wis. 2d 848, 650 N.W.2d 75.

In any event, the record plainly demonstrates that the circuit court did take into account the fact that several banks had denied Jeffrey's loan and credit applications after the March 12 order was issued. What Jeffrey fails to acknowledge is that the court gave less weight to that fact than to other facts of record, including that Jeffrey had not sought loans from other banks doing business in Gabon, where he resided, or sought credit in lesser amounts than $50,000. Because Jeffrey failed to establish to the court's satisfaction that he could not, in fact, have obtained loans or credit if he had tried harder, his actual failure to obtain loans or credit did not change the court's view as to the continuing equity of its order.

Similarly, the circuit court did take into account that Jeffrey no longer owned real estate he had owned at the time the court first ordered him to pay the $50,000 lump sum.[3] Again, however, the court viewed the significance of this fact differently from Jeffrey. The court reasoned that if Jeffrey was able to liquidate real estate after being ordered to pay the lump sum, then he had the ability to comply with the order. His asserted inability to satisfy his court-ordered obligation was not the result of unforeseen obstacles but rather his deliberate choice to use available funds elsewhere.

In sum, we conclude that the circuit court considered the facts in the record and its discussion and order reflects a reasonable basis to deny relief under the newly discovered evidence, inequitable prospective application of the order, and catchall provisions in WIS. STAT. § 806.07. Jeffrey does not develop any separate argument regarding the imposition of the new

[3] Jeffrey does not state when the real estate was sold or for how much money. We presume, however, that the sale occurred after the circuit court's February 19 ruling, given that Jeffrey testified at the relief hearing that it was sold "recently" and that he lists his lack of real estate among his newly discovered evidence factors.

interest provisions, and the provisions are consistent with the court's stipulated authority to determine how the $50,000 would be paid.

Upon the foregoing,

IT IS ORDERED that the order is summarily affirmed. 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