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DISTRICT II

May 20, 2026

To:

Hon. Sandy A. Williams
Circuit Court Judge
Electronic Notice

Grete Engel
Electronic Notice

Connie Mueller
Clerk of Circuit Court
Ozaukee County Justice Center
Electronic Notice

Mark R. Toth
Electronic Notice

James Szymczak
Electronic Notice

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

2025AP836

James Szymczak v. Lisa U. Harbeck (L.C. #2025PR7)

Before Gundrum, Grogan, and Lazar, 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 Szymczak, pro se, appeals from an order of the circuit court admitting Thomas Edward Szymczak's Will to informal probate. 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 reverse and remand.

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

In January 2025, Lisa U. Harbeck filed a petition for informal administration of Thomas's² estate. She subsequently filed the Will. Harbeck filed in Ozaukee County because, before his death, Thomas most recently resided at an address in Ozaukee County at which he was receiving mail. James, who is Thomas's next of kin, filed objections to Harbeck acting as personal representative and to Thomas's Will being admitted to probate in Ozaukee County. Specifically, he claimed that Ozaukee County did not have jurisdiction and that the Will was invalid for reasons including: the Will failed to conform with statutory standards, Thomas lacked testamentary capacity at the time of the Will's execution, Harbeck exerted undue influence on Thomas, and the Will was induced by fraud. The circuit court noticed the matter for a status conference hearing in March 2025, stating it was regarding an "Objection filed in Informal Administration," and it converted the case to formal administration. Although not required to do so, Harbeck's counsel sent a copy of the notice with a cover letter to the Will beneficiaries in which counsel stated:

I am confirming that my office will appear on behalf of Lisa Harbeck. James Szymczak is required to attend. Please note that no one else is required to attend but you are certainly able to do so. The purpose of the Status Conference is to learn about the status of the case and to schedule any further necessary scheduling orders. The status hearing on March 24, 2025 *will not address the factual nature of the objection, that will be a later date.*

(Emphasis added.)

At the status conference hearing, the circuit court asked James to offer proof for the basis of his objections. James explained that he was not prepared to do so because his understanding was "this is not some kind of evidentiary hearing" in reliance on the statement made by opposing

² Because the appellant and the deceased share the same surname, we use their first names for ease of reference.

counsel's letter to him and the other Will beneficiaries in which it was stated, "[t]he status hearing ... will not address the factual nature of the objection, that will be a later date." The court found that James did not offer facts to support his objections and dismissed his objections without holding an evidentiary hearing. It subsequently admitted Thomas's Will to informal probate. James timely appealed.

On appeal, James makes two claims: (1) he was denied due process, and (2) Ozaukee County Probate Court lacked authority to admit Thomas's Will because Thomas was not domiciled in Ozaukee County. We address only the first claim. Resolution of James's second argument depends on factual determinations that were not made in the circuit court and on a Record that was not developed due to the lack of an evidentiary opportunity. Because that issue may be affected by further proceedings on remand, we do not reach it.

Whether a party was afforded due process presents a question of law we review de novo. *Teague v. Schimel*, 2017 WI 56, ¶18, 375 Wis. 2d 458, 896 N.W.2d 286. We review a circuit court's procedural and case-management decisions for an erroneous exercise of discretion. *Dane County DHS v. Mable K.*, 2013 WI 28, ¶38, 346 Wis. 2d 396, 828 N.W.2d 198. A proper exercise of discretion requires the circuit court to examine the relevant facts, apply a proper standard of law, and use a demonstrated rational process to reach a conclusion that a reasonable judge could reach. *Id.*, ¶39. A court's discretionary authority must be exercised in a manner consistent with due process.

The circuit court concluded that James's objections were insufficient and dismissed them at a status conference. However, the procedure employed raises due process concerns. Due process requires notice and the opportunity to be heard. *Laatsch v. Derzon*, 2018 WI App 10,

¶42, 380 Wis. 2d 108, 908 N.W.2d 471. Although James received notice of the status conference, he was also informed by opposing counsel that no substantive argument would occur at that hearing. Under these circumstances, James was not on notice that the sufficiency of his objections would be tested or that dismissal was a possible outcome. As a result, he did not have a meaningful opportunity to respond to the court’s concerns regarding the adequacy of his objections.

Even assuming the objections were deficient, the circuit court’s summary dismissal at a status conference, without affording James an opportunity to support or clarify his allegations, deprived him of a meaningful opportunity to be heard. Accordingly, we reverse the order dismissing the objections and remand for further proceedings at which James shall be given an opportunity to present evidence or otherwise support his objections.³

Therefore,

IT IS ORDERED that the order of the circuit court is summarily reversed and the cause remanded. *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

³ On October 2, 2025, Harbeck filed a Motion for Fees and Costs Based on Appellant’s Frivolous Appeal; James filed a response in opposition that same day. We deny the motion.