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DISTRICT IV

May 29, 2026

To:

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

2024AP2487

Leonard Pozner v. James Fetzer (L.C. # 2018CV3122)

Before Kloppenburg, Nashold, and Taylor, 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 Fetzer, pro se, appeals a circuit court order that denied reconsideration of a prior order denying judicial recusal. Based on 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 summarily affirm.

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

The underlying matter is a 2018 defamation case by Leonard Pozner against Fetzer. The circuit court granted partial summary judgment to Pozner on the issue of whether Fetzer's statements were defamatory. The damages issue was tried to a jury, which returned a verdict awarding \$450,000 to Pozner in October 2019.

In June 2024, on remand from this court following a prior appeal, the circuit court issued an order disbursing funds to satisfy the judgment. The court denied Fetzer's motion for relief from judgment under WIS. STAT. § 806.07, and also granted Pozner's motion to seal the motion for relief and related exhibits.

On July 9, 2024, Fetzer moved the circuit court judge to recuse himself under WIS. STAT. § 757.19(2)(g), alleging bias in connection with the orders denying relief from judgment and sealing material in the record. On August 22, 2024, the court issued an order denying the recusal motion. The order explained that the judge determined that he was impartial and that there was no appearance of bias. On September 3, 2024, Fetzer moved for reconsideration of the order denying recusal. He argued that the judge erred by failing to respond to each of the seven specific allegations of due process and civil procedure violations that Fetzer asserted demonstrated bias.

On November 25, 2024, the circuit court denied Fetzer's motion for reconsideration of the order denying recusal.² The order denying reconsideration explained that Fetzer provided no authority for the proposition that the judge was required to address each allegation of bias and

² In the interim, on October 4, 2024, the circuit court issued an order imposing sanctions against Fetzer. Fetzer has appealed the sanctions order, and that appeal remains pending before this court as appeal No. 2024AP2027.

that, in any event, the judge understood the allegations and determined they did not provide grounds for recusal. The order explained that Fetzer had not met his burden to show any error of law or fact in the order denying recusal. This appeal is from the order denying reconsideration of the order denying recusal.

“To prevail on a motion for reconsideration, the movant must present either newly discovered evidence or establish a manifest error of law or fact.” *Koepsell’s Olde Popcorn Wagons, Inc. v. Koepsell’s Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis. 2d 397, 685 N.W.2d 853. We review a decision on a motion for reconsideration for an erroneous exercise of discretion. *Id.*, ¶6.

Here, Fetzer contends that the circuit court judge erred by making the subjective determination of impartiality under WIS. STAT. § 757.19(2)(g) without specifically addressing each individual claim of due process and civil procedure violation that Fetzer alleged. However, Fetzer does not cite any authority for the proposition that a judge is required to specifically address and refute each individual allegation underlying a request for recusal before making the subjective determination of impartiality under § 757.19(2)(g).³ We reject his argument on that basis.

Fetzer also contends that the circuit court judge’s subjective determination of impartiality was insufficient without proof of his impartiality. We disagree. Under WIS. STAT.

³ We note that the order denying recusal recognized that Fetzer asserted a “breach of due process and ... Civil Procedure,” and then explained that the judge determined that nothing in the proceedings supported a claim of bias. Moreover, Fetzer previously appealed the orders denying relief from judgment and ordering record material sealed. In our opinion affirming those orders, we rejected Fetzer’s claims of due process and civil procedure violations as undeveloped. *Pozner v. Fetzer*, No. 2024AP1361, unpublished op. and order (WI App Apr. 16, 2026).

§ 757.19(2)(g), recusal is required “[w]hen a judge determines that, for any reason, he or she cannot, or it appears he or she cannot, act in an impartial manner.” “[T]he determination of the existence of a judge’s actual or apparent inability to act impartially in a case is for the judge to make.” *State v. American TV & Appliance of Madison, Inc.*, 151 Wis. 2d 175, 183, 443 N.W.2d 662 (1989). Thus, the judge’s subjective determination of impartiality was sufficient.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to 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