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DISTRICT I

July 21, 2026

To:

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Clerk of Circuit Court
Milwaukee County Appeals Processing
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Wayne Hollis Schubert
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You are hereby notified that the Court has entered the following opinion and order:

2024AP1293

Ann Louise Schubert v. Wayne Hollis Schubert
(L.C. # 2020FA4467)

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

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).

Wayne Hollis Schubert appeals from the circuit court's judgment and orders entered in favor of his ex-wife, Ann Louise Goertz (formerly, Schubert), and denying his motion to vacate a contempt order. Although Wayne makes numerous arguments in support of his appeal, 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 summarily affirm the circuit court.²

Ann and Wayne divorced in 2023. Later that year, Ann pursued contempt proceedings against Wayne for his failure to take certain actions required in the judgment of divorce. The circuit court conducted a hearing on the contempt motion. Although his counsel appeared at the contempt hearing, Wayne did not. At the conclusion of the hearing, the court found Wayne in contempt, ordered him to serve 30 days in jail, and set a purge amount. Wayne did not appeal the contempt order.

In 2024, Ann moved the circuit court to enter a monetary judgment against Wayne in connection with the contempt finding, and an April 8, 2024 hearing was set on Ann's motion. Wayne objected and asked the court to vacate the contempt finding. On April 8, 2024, Wayne filed a motion to vacate the contempt order and sought to have that motion heard with Ann's motion for judgment that same afternoon. The April 8th hearing commenced, but Wayne did not appear. The circuit court declined to rule on Wayne's motion to vacate as it was untimely, and entered judgment in Ann's favor "[b]ased on the record" in the amount of \$47,040.

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

² Ann, through counsel, moves this court for an award of costs, fees, and attorneys' fees pursuant to WIS. STAT. RULE 809.25(3), alleging that the appeal is frivolous. In order for this court to award sanctions under RULE 809.25(3), the entire appeal must be frivolous. *Thompson v. Ouellette*, 2023 WI App 7, ¶¶20, 59, 406 Wis. 2d 99, 986 N.W.2d 338. Although we reject Wayne's arguments for the reasons discussed herein, we are not persuaded that the entire appeal is frivolous. Therefore, we deny the motion for costs, fees, and attorneys' fees under RULE 809.25(3).

Wayne refiled the motion to vacate and obtained a hearing date, but failed to appear at the hearing on that motion, too. The circuit court dismissed Wayne's motion with prejudice, citing the record and Wayne's failure to appear in court for the hearing.

Wayne subsequently filed three separate notices of appeal.

On appeal, Wayne alleges that the circuit court erred when it entered judgment in Ann's favor despite his objection and when it denied his motion to vacate the contempt order, contending that "extraordinary circumstances" require that we reverse the circuit court's judgment and orders in the interest of justice under WIS. STAT. § 806.07(1)(h). In support of his claim, Wayne alleges constitutional violations and attorney misconduct in the circuit court that predates the 2024 contempt proceedings, among other apparent claims.

We need not address the specifics of his claims, however, because Wayne's appeal fails for two interconnected reasons. First, he focuses his attention on the wrong things. Rather than addressing the circuit court's reasons for entering the money judgment over his objection and denying his motions to vacate, Wayne reargues the various facts underlying the contempt order, which are irrelevant unless Wayne establishes that the circuit court erred when *it* considered those facts. Because the circuit court cited the record and Wayne's failure to attend the hearings as the basis for its decision, Wayne encounters the second problem: there are no hearing transcripts in the record on appeal, and Wayne therefore cannot establish that the circuit court erred when it considered his objection and motion.

Dismissal for failure to prosecute is largely left to the circuit court's discretion. ***Hlavinka v. Blunt, Ellis & Loewi, Inc.***, 174 Wis.2d 381, 392, 497 N.W.2d 756 (Ct. App. 1993). Similarly, whether to grant relief in the interest of justice under WIS. STAT. § 806.07(1)(h) lies

within the circuit court’s discretion. *Sukala v. Heritage Mut. Ins. Co.*, 2005 WI 83, ¶8, 282 Wis. 2d 46, 698 N.W.2d 610. We will not reverse the circuit court’s discretionary decision if the record reflects that the circuit court examined relevant facts, applied a proper standard of law, and used a rational process to reach a conclusion that a reasonable judge could reach, even if another reasonable judge might reach a different, similarly reasonable conclusion. *Loy v. Bunderson*, 107 Wis. 2d 400, 414-15, 320 N.W.2d 175 (1982); *Filppula-McArthur ex rel. Angus v. Halloin*, 2000 WI App 79, ¶16, 234 Wis. 2d 245, 610 N.W.2d 201.

Wayne cannot establish that the circuit court erroneously exercised its discretion. As the appellant, it is Wayne’s burden to establish an error justifying relief, however, Wayne never even addresses the fact that the circuit court entered the judgment over his objection and dismissed his motions due, at least in part, to his failure to attend the hearings on those matters, or to prosecute them. While we afford some leniency to pro se litigants, we will not develop arguments for the parties. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992); *Clear Channel Outdoor, Inc. v. City of Milwaukee*, 2017 WI App 15, ¶28, 374 Wis. 2d 348, 893 N.W.2d 24.

Wayne also cannot establish that the circuit court erroneously exercised its discretion because the record contains no hearing transcripts.³ Without transcripts, we cannot determine whether the circuit court examined relevant facts, applied a proper standard of law, and used a rational process to reach a conclusion that a reasonable judge could reach. We do not know the

³ Wayne is correct that in some cases a transcript may not be necessary to an appeal, but those cases generally involve issues that were decided without a hearing, or where the dispute involves only a question of law. This is not such a case.

extent to which Wayne's non-appearance at the hearing played a role in the circuit court's decisions, or what findings or conclusions the court made that were not subsumed in the written orders that Wayne challenges. When the record is incomplete as to a particular issue, the missing material is ordinarily assumed to support the circuit court's ruling. See *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993). Therefore, the lack of a transcript here is fatal to Wayne's appeal.

In light of the foregoing, we summarily affirm.

IT IS ORDERED that the judgment and orders are summarily affirmed. 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