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DISTRICT II

August 5, 2026

To:

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

2025AP527

Vita Stern v. Marcus Henry Stern (L.C. #2023FA53)

Before Gundrum, P.J., 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).

Marcus Henry Stern appeals from the circuit court's judgment of divorce and order on a motion to withdraw as counsel.¹ Based upon our review of the briefs and Record, we conclude

¹ While the notices of appeal indicate that this is an appeal from the judgment of divorce and an order for contempt of court, appellant's brief focuses on the circuit court's order granting counsel's motion to withdraw as counsel, arguing that the court erred in its discretion thereby warranting a new trial. Therefore, this court does not disturb the order for contempt of court.

at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).² For the following reasons, we affirm.

BACKGROUND

In January 2023, Vita Stern³ filed for divorce. During the two-year divorce proceedings, Marcus retained three different attorneys each of whom withdrew as counsel. The third attorney was retained twice and withdrew both times during the course of the litigation.

The second time Marcus's third attorney withdrew came less than three weeks before trial. She filed a motion to withdraw and a request for a judgment of fees and costs. She stated that although she was aware that the trial was imminent, the "breakdown in the attorney-client relationship was so significant that [she] could not see this matter through completion of the trial." She explained, "I am unable to adequately represent [Marcus] based upon a fundamental difference in positions and approach." She assured the circuit court that she would cooperate with Marcus's new counsel to ensure a quick transition. Marcus filed a letter in response, not opposing his counsel's withdrawal, but in which he made several accusations and requested a later court trial date to allow time for him to find new counsel.

Eleven days before trial, the circuit court granted Marcus' latest counsel's motion to withdraw without a hearing. The court found that counsel's representations were credible, and that Marcus's letter "further support[ed] her claims that withdrawal [was] appropriate." The

² All references to the Wisconsin Statutes are to the 2023-24 version.

³ For ease of reference, because the parties share the same last name, they will be referred to by their first names.

court denied Marcus's request to push the trial date back, stating that it was "a dilatory tactic." The court explained that the history of the case showed "an unwillingness by [Marcus] to comply with court orders and a general disinterest in participating in the orderly administration of this case." The court cited Marcus as responsible for the situation due to his conduct.⁴

At the beginning of the trial, Marcus requested again that the trial be pushed back. He claimed he was unable to obtain counsel prior to the trial date. The circuit court denied Marcus's latest request to adjourn the trial. The court emphasized that it needed to consider the situation as a whole and that it cannot "look at the situation in a vacuum[.]" The case had been pending for nearly two years, and the trial had been scheduled since July 2024. The court found that Marcus's counsel had been prepared for trial, but that Marcus insisted that she pursue a strategy different from her own. The court found that Marcus pushed counsel out and determined that he should not be allowed to benefit from his behavior:

You know, to put it in a manner of speaking, [Marcus], the [c]ourt is not required to have a party in a case burn a bridge with an attorney and then request that the [c]ourt accommodate the individual when they are arguing that it's hard go get across the river now that there's not a bridge there anymore. That's not something that the [c]ourt is required to accommodate.

⁴ Marcus failed multiple times to cooperate during the discovery process by refusing to answer or adequately respond to Vita's discovery requests. The circuit court therefore had to issue multiple orders compelling Marcus to respond to the discovery requests.

Not only did the circuit court have to issue orders compelling discovery requests, it also found Marcus in contempt of court for: (1) selling an apartment property and "investing into other properties without authorization;" (2) "[w]ithdrawing \$53,000 of funds from the children's savings accounts;" (3) "[t]ransferring property to offshore accounts; and" (4) "[r]ecording a [false] mortgage to" make it appear that their residence was encumbered by a mortgage. Further, Marcus failed to comply with a previous court order that requested him to provide information related to his attempts to hide assets and provided no legal justification for his failure. Marcus does not contest that he engaged in this behavior: he admitted to doing it.

The court explained that Marcus had run through multiple attorneys throughout the litigation, and his prior conduct raised concerns about his honesty and willingness to hide assets should there be a delay. The trial ensued with Marcus being unrepresented and resulted in the judgment of divorce. Marcus appeals.⁵

DISCUSSION

Marcus argues that the circuit court erroneously exercised its discretion in granting counsel's motion to withdraw without a hearing and requests a new trial.

“The motion of retained counsel to withdraw is directed to the sound discretion of the [circuit] court[.]” *State ex rel. Dressler v. Circuit Ct. for Racine Cnty., Branch 1*, 163 Wis. 2d 622, 632, 472 N.W.2d 532 (Ct. App. 1991). “[A] reviewing court may not substitute its discretion for that of the circuit court.” *State v. Rhodes*, 2011 WI 73, ¶26, 336 Wis. 2d 64, 799 N.W.2d 850. This court sustains discretionary decisions if the circuit court considered “the

⁵ Marcus filed a motion for relief pending appeal in March 2025. This court denied his motion, stating:

A person seeking relief pending appeal is required to first file a motion in the circuit court, unless it is impractical to do so. WIS. STAT. RULE 809.12. [Marcus] has not moved the circuit court for relief pending appeal. Despite [Marcus]’s []conclusory and bare-bones allegation that it would be impractical to file in the circuit court, we are not persuaded that seeking relief in the circuit court is or was impractical.

Marcus then filed a motion with the circuit court to stay its judgment pending appeal. During a hearing in April 2025, he explained that he sought a partial stay of the court’s judgment to stay the equalization payment ordered by the judgment. That court denied his motion.

Next, Marcus filed a motion to this court to stay the circuit court’s judgment pending appeal. Upon review, this court determined that “appellant [did not] explain why or how the circuit court erroneously exercised its discretion[.]” This court found that the circuit court’s determination that Marcus “had not made a strong showing that he was likely to succeed on the merits of his appeal” was a reasonable conclusion.

relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.” *Loy v. Bunderson*, 107 Wis. 2d 400, 415, 320 N.W.2d 175 (1982). Additionally, “[w]e look for reasons to sustain a [circuit] court’s discretionary decision.” *State v. Wiskerchen*, 2019 WI 1, ¶18, 385 Wis. 2d 120, 921 N.W.2d 730.

The circuit court here correctly and properly exercised its discretion in allowing Marcus’s counsel to withdraw without a hearing. The court considered the relevant facts, the proper standard of law, and used a rational process to reach a reasonable decision. See *Loy*, 107 Wis. 2d at 415. The court: (1) outlined and incorporated by reference all the materials that it relied on to make its decision; (2) determined, based on first-hand experience, that counsel’s affidavit was a credible account of the attorney-client relationship; (3) reviewed the facts through the correct standard of law, see SCR 20:1.16(b) and *Johnson v. Johnson*, 199 Wis. 2d 367, 372, 545 N.W.2d 239 (Ct. App. 1996) (citing SCR 20:1.16), and (4) determined that there was a proper basis for counsel to withdraw. There was requisite notice and opportunity for Marcus to obtain new counsel after counsel withdrew. Counsel provided notice of intention to withdraw on January 7, 2025, and Marcus had almost three weeks after that notice to find new representation. Counsel promised that she would cooperate with Marcus’s new counsel to ensure a quick transition. In *Johnson*, the court affirmed the circuit court’s decision to allow counsel to withdraw just six days before the trial. *Johnson*, 199 Wis. 2d at 372. Here, Marcus had almost double that amount of time before his divorce trial.

Similar to *Johnson*, Marcus’s divorce case had been pending for two years, and Marcus was well aware of the January 2025 trial date. See *id.* at 373. Finally, the circuit court exercised

sound discretion in addressing the motion without a hearing because the court had the facts and made credibility assessments from overseeing two years of litigation.

Marcus asks this court to employ the discretionary power of reversal. *See* WIS. STAT. § 752.35. “The power to grant a new trial in the interest of justice is to be exercised ‘infrequently and judiciously.’” *State v. Cameron*, 2016 WI App 54, ¶31, 370 Wis. 2d 661, 885 N.W.2d 611 (citation omitted). We are not convinced that this is an exceptional case that requires exercise of our discretionary reversal authority.

This court concludes the circuit court did not erroneously exercise its discretion in granting counsel’s motion of withdrawal without a hearing. Additionally, we conclude that Marcus had adequate notice and opportunity to obtain new counsel after his latest counsel’s withdrawal. Therefore, this court denies Marcus’s request for a new trial.

Upon the foregoing reasons,

IT IS ORDERED that the judgment and order of the circuit court 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