

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 1, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2025AP1065

Cir. Ct. No. 2023SC6714

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

MIDLAND CREDIT MANAGEMENT, INC.,

PLAINTIFF-RESPONDENT,

V.

ABEL CERON,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
RHONDA L. LANFORD, Judge. *Affirmed.*

¶1 BLANCHARD, J.¹ Abel Ceron appeals a circuit court order denying his motion to reopen a default judgment entered against him in a small claims action pursued by Midland Credit Management, Inc., after Ceron failed to

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a). All references to the Wisconsin Statutes are to the 2023-24 version.

appear in court on the return date in response to Midland's summons and complaint and also failed to take any other step to respond to the complaint for nearly one year before moving to reopen the case. For the reasons provided below, the court's order is affirmed.

BACKGROUND

¶2 On November 13, 2023, Midland named Ceron as the defendant in a summons and small claims complaint filed in the circuit court. The complaint stated claims of contract breach, account stated, and implied contract-unjust enrichment. Midland's claims were based on allegations that Midland had succeeded in interest to a creditor on a credit account extended to Ceron, and that Ceron had "failed to pay the amount set forth on the statements and there remains a balance due." The complaint further alleged that the net amount Midland was owed was \$1,947.93, after subtracting all payments received from and credits due to Ceron from the total principal, interest, and fees that Ceron owed as of November 8, 2023. Attached to the complaint was a billing statement addressed to Ceron purporting to reflect the total outstanding balance due.

¶3 On November 30, 2023, Midland filed an affidavit of service. A process server averred that on November 27, 2023, he had personally served the summons and complaint on Ceron at the address that Midland asserted was Ceron's residence. The summons allegedly served on Ceron stated that he "must file a written answer and provide a copy to" Midland or its attorney on or before the return date of December 13, 2023, at 9 a.m. The summons also stated that, if Ceron did not appear in circuit court or answer the complaint, Midland "may win this case" and that a judgment could be entered for what Midland was asking the court to order as a money judgment.

¶4 The record does not contain an answer, or any other pleading or correspondence, filed by Ceron during the period November 13 to December 13, 2023, or, for that matter, for nearly a year after that. Further, the parties in the circuit court and now on appeal, as well as the circuit court, have all operated from the following premise. Ceron did not file any papers or correspondence with the court or make any appearance in advance of the clerk of the circuit court entering a money judgment, on December 14, 2023, in favor of Midland for \$2,097.43, based on clerk or court commissioner action on December 13. The default judgment amount consisted of the \$1,947.93 claimed in the complaint, plus filing fees, service fees, and other costs. Also on December 14, a court commissioner issued an order for financial disclosure. This directed Ceron to either pay the judgment in full, or to accurately complete a financial disclosure statement form and mail or deliver it to Midland or its attorney, within 15 days of entry of the judgment.

¶5 Nearly one year later, on November 19, 2024, an attorney filed a notice of appearance for Ceron. On December 12, 2024, Ceron's attorney followed up that notice with a motion to reopen the case, making arguments similar to those addressed in discussion below. Midland opposed the motion to reopen, making arguments similar to those that it also renews on appeal.

¶6 After a court commissioner denied Ceron's motion to reopen, Ceron requested a de novo hearing in the circuit court, and the parties each filed briefs that repeated their arguments on the merits of reopening the case. In addition, Ceron filed a proposed answer, affirmative defenses, and counterclaims. The de novo hearing was held on April 16, 2025. The circuit court denied the motion to reopen. Ceron appeals.

DISCUSSION

¶7 The issue in this appeal is whether Ceron has shown that the circuit court, on its de novo review of Ceron’s motion to reopen the judgment, erroneously exercised its discretion in denying the motion. I conclude that Ceron has not made that showing. I begin with pertinent legal standards and then explain my conclusion.

¶8 As pertinent here, if the defendant in a small claims action “fails to appear on the return date ..., the court may enter a judgment upon due proof of facts which show the plaintiff entitled thereto,” commonly referred to as a default judgment. WIS. STAT. § 799.22(2).

¶9 WISCONSIN STAT. § 799.29(1)(a) provides the exclusive procedure for reopening a default judgment in a small claims proceeding. **King v. Moore**, 95 Wis. 2d 686, 689-90, 291 N.W.2d 304 (Ct. App. 1980) (concluding that predecessor statute to § 799.29(1) “provides the exclusive procedure for reopening a default judgment in small claims proceedings”); *see also Wisconsin Nat. Gas Co. v. Kletsch*, 95 Wis. 2d 691, 696, 291 N.W.2d 640 (Ct. App. 1980) (stating that what is now § 799.29(1) “provides the sole means of attacking a default judgment in small claims actions which have been commenced, as here, by personal service of the summons”).

¶10 Pursuant to WIS. STAT. § 799.29(1)(a), “the trial court may, by order, reopen default judgments upon notice and motion or petition duly made and good cause shown.” As discussed further below, “good cause” in this context is not defined in WIS. STAT. ch. 799.

¶11 The decision to grant or deny a motion to reopen a default judgment is committed to the sound discretion of the circuit court. *Kovalic v. DEC Int'l*, 186 Wis. 2d 162, 166, 519 N.W.2d 351 (Ct. App. 1994). This means that a circuit court's decision resolving a motion to reopen will not be disturbed unless the appellant shows an erroneous exercise of discretion. *Miller v. Hanover Ins. Co.*, 2010 WI 75, ¶29, 326 Wis. 2d 640, 785 N.W.2d 493. “A circuit court does not erroneously exercise its discretion if its decision is based on the facts of record and on the application of a correct legal standard.” *Id.* (quoting *Larry v. Harris*, 2008 WI 81, ¶15, 311 Wis. 2d 326, 752 N.W.2d 279). This court may search the record to determine whether the record supports the circuit court's discretionary decision. *Countrywide Home Loans, Inc. v. Schmidt*, 2007 WI App 243, ¶22, 306 Wis. 2d 200, 742 N.W.2d 901.

¶12 Whether a circuit court, in exercising its discretion, applied a correct legal standard presents an issue of law, which this court reviews de novo. *Robin K. v. Lamanda M.*, 2006 WI 68, ¶12, 291 Wis. 2d 333, 718 N.W.2d 38.

¶13 One dispute between the parties on a legal issue ends up being dispositive, given Ceron's approach in arguing his motion to reopen and in this appeal. The dispute is over what constitutes a showing of “good cause” necessary to support a discretionary decision to reopen a default judgment in a small claims case.

¶14 In the absence of a statutory definition, Ceron relies on dictionary definitions. He argues that good cause in this context means that the litigant has provided the circuit court “with an adequate, legally valid reason for reopening a case.”

¶15 Midland disagrees. To ascertain the meaning of WIS. STAT. § 799.29(1)(a) for small claims cases, Midland turns to a related statute used for civil cases outside small claims procedure, WIS. STAT. § 806.07. See ***State ex rel. Kalal v. Circuit Ct. for Dane Cnty.***, 2004 WI 58, ¶46, 271 Wis. 2d 633, 681 N.W.2d 110 (stating that statutory language is interpreted, in part, “in relation to the language of surrounding or closely-related statutes”). “Paragraphs § 806.07(1)(a)-(g) permit relief for specific circumstances, and paragraph 806.07(1)(h) is a ‘catch-all’ provision allowing relief from judgment for ‘any other reasons justifying relief.’”² ***Sukala v. Heritage Mut. Ins. Co.***, 2005 WI 83, ¶9, 282 Wis. 2d 46, 698 N.W.2d 610 (quoted source omitted).

² WISCONSIN STAT. § 806.07 states in pertinent part:

(1) On motion and upon such terms as are just, the court, subject to sub[[]]. (2) ..., may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:

(a) Mistake, inadvertence, surprise, or excusable neglect;

(b) Newly-discovered evidence which entitles a party to a new trial under [WIS. STAT. §] 805.15(3);

(c) Fraud, misrepresentation, or other misconduct of an adverse party;

(d) The judgment is void;

(e) The judgment has been satisfied, released or discharged;

(f) A prior judgment upon which the judgment is based has been reversed or otherwise vacated;

(g) It is no longer equitable that the judgment should have prospective application; or

(h) Any other reasons justifying relief from the operation of the judgment.

(continued)

¶16 Consistent with Midland’s position, persuasive opinions of this court have stated that the WIS. STAT. § 806.07(1) factors provide a reasonable guide to pertinent factors under WIS. STAT. § 799.29(1). See **Martindale Pinnacle Constr. v. Pulley**, No. 2019AP2290-FT, unpublished slip op. ¶¶8, 13-15 (WI App Apr. 16, 2020); **Ryan v. Friday**, No. 2018AP1354, unpublished slip op. ¶11 (WI App May 14, 2019); **Mandujano v. Mendoza**, No. 2018AP109, unpublished slip op. ¶8 (WI App July 25, 2018).³

¶17 The circuit court here agreed with Midland on this issue. I also agree that circuit courts properly exercise their discretion by using the WIS. STAT. § 806.07 factors as guideposts for determining whether good cause is shown to reopen a small claims case.

¶18 Ceron’s proposed dictionary-based definition provides no guidance whatsoever for parties and courts. “Adequate” has no independent content. Circuit courts are of course obligated to make rulings based on “legally valid” reasons and not on legally invalid reasons. According to the logic of Ceron’s argument, any disadvantage to him arising from a decision by the court to deny his motion to reopen that has a valid legal basis not only *could* be considered good cause, but any such disadvantage *must* be considered good cause.

(2) The motion shall be made within a reasonable time, and, if based on sub. (1)(a) or (c), not more than one year after the judgment was entered or the order or stipulation was made. A motion based on sub. (1)(b) shall be made within the time provided in [WIS. STAT. §] 805.16....

³ See WIS. STAT. RULE 809.23(3)(b) (an unpublished opinion issued on or after July 1, 2009, that is authored by a member of a three-judge panel or by a single judge under WIS. STAT. § 752.31(2) may be cited for its persuasive value).

¶19 In contrast, the WIS. STAT. § 806.07 standards, including the catch-all provision, provide a meaningful yet flexible set of considerations that has been the subject of extensive case law. *See, e.g., City of Eau Claire v. Booth*, 2016 WI 65, ¶19, 370 Wis. 2d 595, 882 N.W.2d 738 (concluding that a civil forfeiture judgment was not void for lack of subject matter jurisdiction under § 806.07(1)(d)). Further, Ceron does not provide a good reason to think that the legislature, in enacting WIS. STAT. § 799.29(1), was less concerned in the small claims context than in the large claims context with the benefits of finality and with encouraging timely responses to legal process, while recognizing the goal of fair resolutions of disputes. *See Miller*, 326 Wis. 2d 640, ¶36 (identifying “the competing interests of finality of judgments and fairness in the resolution of the dispute” as overarching considerations for the circuit court considering whether to grant relief from judgment).

¶20 Further, Ceron does not develop an argument based on the proposition that, even if it is generally appropriate to use the terms of WIS. STAT. § 806.07 to inform the good cause standard under WIS. STAT. § 799.29(1)(a), the facts of this case for some reason required the circuit court to diverge from using some or all of the terms of § 806.07 as guideposts for the court’s consideration of his motion to reopen.

¶21 With all of that as background, I conclude that Ceron’s approach essentially leads to a dead end and accordingly he fails to show that the circuit court erroneously exercised its discretion.

¶22 Ceron does not even attempt to provide arguments that could constitute good cause when one considers the factors stated in WIS. STAT. § 806.07 as guideposts. For example, he does not offer any alternative arguments

based on the considerations stated in § 806.07(1)(a)—mistake, inadvertence, surprise, or excusable neglect. *See, e.g., Carmain v. Affiliated Capital Corp.*, 2002 WI App 271, ¶23, 258 Wis. 2d 378, 654 N.W.2d 265 (“Excusable neglect is that neglect which might have been the act of a reasonably prudent person under similar circumstances.”); *Martin v. Griffin*, 117 Wis. 2d 438, 443, 344 N.W.2d 206 (Ct. App. 1984) (stating that excusable neglect “is not synonymous with neglect, carelessness[,] or inattentiveness”). Nor does he suggest that he is entitled to relief under the “catch-all” provision of § 806.07(1)(h), which requires a showing of “extraordinary circumstances.” *See Miller*, 326 Wis. 2d 640, ¶¶32, 34, 36 (listing five non-exhaustive factors for circuit courts to consider in determining whether extraordinary circumstances exist).⁴ I cannot attempt to construct such arguments for Ceron. *See Herder Hallmark Consultants, Inc. v. Regnier Consulting Grp., Inc.*, 2004 WI App 134, ¶16, 275 Wis. 2d 349, 685 N.W.2d 564 (this court will not develop an argument on a party’s behalf).

¶23 Further, attempting to construct such arguments would be virtually impossible. This is because Ceron did not submit to the circuit court evidence in any form such as an affidavit, or even allege facts through his attorney, to explain

⁴ The non-exhaustive factors for applying WIS. STAT. § 806.07(1)(h) are:

whether the judgment was the result of the conscientious, deliberate and well-informed choice of the claimant; whether the claimant received the effective assistance of counsel; whether relief is sought from a judgment in which there has been no judicial consideration of the merits and the interest of deciding the particular case on the merits outweighs the finality of judgments; whether there is a meritorious defense to the claim; and whether there are intervening circumstances making it inequitable to grant relief.

Miller v. Hanover Ins. Co., 2010 WI 75, ¶36, 326 Wis. 2d 640, 785 N.W.2d 493 (quotation marks and quoted source omitted).

or provide context for either his initial failure to appear or his failure to submit any pleadings or correspondence for nearly one year, including his extreme delay in seeking relief from the default judgment. Thus, Ceron failed to identify for the court any facts that could make reopening this case the fair result, such as any problems involving service of the lawsuit, communications that Ceron did or did not have with any attorneys, or intervening events in Ceron’s life. As a result, as far as the record revealed at the time of the hearing, the court could reasonably have found that, when Ceron was served with the summons and complaint, he was fully aware of his rights and obligations with respect to them, and he decided to live with the default judgment, and that nearly one year later he simply changed his mind.

¶24 What Ceron does argue appears to be entirely based on his faulty understanding that, in his words, he “needs to only identify an adequate reason to believe” that the case should be opened. As I have explained, this is not the correct legal framework. He makes two arguments, neither of which shows an erroneous exercise of discretion under the correct legal framework.

¶25 One argument is to the effect that the circuit court made the legal error of not recognizing that the case must be reopened because otherwise Ceron cannot pursue affirmative defenses and counterclaims against Midland that he would now like to pursue. This includes references to the compulsory counterclaim rule. But Ceron does not develop an argument showing that even if, at the time of the hearing on the motion to reopen, the court had agreed with Ceron on all of these legal theories, the only discretionary option open to the court was to reopen the case. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (“We may decline to review issues inadequately briefed.”). In order to establish that the court erroneously exercised its discretion under the correct legal

framework, Ceron would have to show why, under all relevant circumstances, he is entitled to pursue these defenses and counterclaims so long after the default judgment was entered.

¶26 It is the same with the other argument. This argument is to the effect that the circuit court made the legal error of not recognizing that, under the remedies and penalties chapter of the Wisconsin Consumer Act, a default judgment could not be entered in this case because the complaint fails to specify facts that could constitute default. *See* WIS. STAT. § 425.109(1)(c) (providing that a complaint “shall include” “[a] specification of the facts constituting the alleged default by the customer”); § 425.109(3) (providing that “[a] default judgment may not be entered upon a complaint which fails to comply with” § 425.109). This argument turns on the specifics of what could qualify as a default under the type of credit arrangement that was used here. Again, even if the court at the time of the hearing considered the complaint defective in this respect, this leaves unanswered why the only discretionary option that the court had to take was to reopen the case. At the hearing, the court said that it believed that it could safely assume that the judge or court commissioner who reviewed the complaint and entered the default judgment considered the complaint to meet all requirements for default. Ceron fails to show that it was not reasonable for the court to take into account the court’s confidence that the neutral officer who entered the judgment made a fair assessment of the viability of the complaint. He further fails to show that this could not be a reasonable contributing factor to the court’s conclusion that there is not good cause to reopen the case so long after entry of judgment. For example, Ceron does not direct my attention to any other alleged deficiency or deficiencies in the complaint that should have, alone or in some combination, alerted the issuing neutral officer that entering a default judgment was inappropriate.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT.
RULE 809.23(1)(b)4.

