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DISTRICT I

October 6, 2026

To:

Hon. Brittany C. Grayson
Circuit Court Judge
Electronic Notice

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

2025AP982

Steven Scott v. Glen B. Kulkoski (L.C. # 2024CV5252)

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).

Steven Scott, pro se, appeals from an order dismissing this matter, without prejudice, on the grounds that service was not timely. 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.

Scott filed the underlying action against Attorney Glen B. Kulkoski on July 1, 2024. Scott claimed negligence and legal malpractice against Kulkoski, his postconviction/appellate counsel, for failing to appeal from an order denying his postconviction motion for resentencing entered on March 3, 2009, in Milwaukee County Circuit Court Case No. 2005CF4911.² Scott sought compensatory and punitive damages in the amount of \$1.7 million.

The matter was set for a status conference in January 2025 to address whether service of the summons and complaint was timely. The circuit court determined that service had not been achieved within the requisite statutory time frame of ninety days, as set forth in WIS. STAT. § 801.02(1). The court therefore dismissed the action without prejudice. This appeal follows.

¹ No respondent's brief was filed in this matter. Information available to this court suggests that Attorney Glen B. Kulkoski, the respondent, may be deceased. Therefore, by order dated December 11, 2025, we directed the clerk of this court to submit this appeal without a respondent's brief.

Under some circumstances, summary reversal may be appropriate as a sanction for a respondent's failure to file a brief, such as when "bad faith, egregious conduct, or a litigant's abandonment of the appeal" has been demonstrated. *Raz v. Brown*, 2003 WI 29, ¶18, 260 Wis. 2d 614, 660 N.W.2d 647. Here, however, there has been no such conduct. Furthermore, we conclude that we are able to reach a decision in this matter without a respondent's brief. Therefore, judicial interests would not be served by summarily reversing the circuit court's order on procedural grounds.

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

² We note that, based on court records, successor counsel was appointed for Scott in 2010 for Case No. 2005CF4911, and his appellate rights in that matter were reinstated after this court granted his petition for writ of habeas corpus. See *State ex rel. Scott v. Pollard*, 2010AP2780-W, unpublished op. and order (WI App May 13, 2011). An appeal under the no-merit procedures of WIS. STAT. RULE 809.32 followed, which included review of the March 3, 2009 order denying resentencing; this court affirmed. See *State v. Scott*, No. 2011AP1418-CRNM, unpublished op. and order (WI App June 15, 2012).

“A Wisconsin court obtains personal jurisdiction over a defendant by proper service of a summons upon the defendant.” *Johnson v. Cintas Corp. No. 2*, 2012 WI 31, ¶23, 339 Wis. 2d 493, 811 N.W.2d 756. “Wisconsin requires strict compliance with its rules of statutory service[.]” *Id.*, ¶25 (citation omitted). “[W]hether a defect in a summons and complaint is fundamental such that it deprives the circuit court of personal jurisdiction is a question of law that this court reviews independently[.]” *Id.*, ¶22.

Under the ninety-day time frame of WIS. STAT. § 801.02(1), the deadline for Scott to serve Kulkoski was September 30, 2024. Scott filed a statement and exhibits with the circuit court which indicated that a check was issued by his institution on September 6, 2024, to the Milwaukee County Sheriff’s Department for purposes of serving the summons and complaint. Other exhibits submitted by Scott show that he signed a disbursement request for the check at his institution on September 28, 2024, and that the check cleared on October 10, 2024. Additionally, an affidavit of non-service was filed indicating that the process server was unable to serve Kulkoski on October 7, 2024.

At the time service was attempted, the deadline for service had already passed. Furthermore, pursuant to WIS. STAT. § 801.15(2)(a), the ninety-day period for service “may not be enlarged.” Therefore, the circuit court properly dismissed this action for untimely service. *See id.; Johnson*, 339 Wis. 2d 493, ¶25. Accordingly, we affirm.

Therefore,

IT IS ORDERED that the order is 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