

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 6, 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 Nos. 2025AP2547
2025AP2548
2025AP2549
2025AP2550
2025AP2551
2025AP2552**

**Cir. Ct. Nos. 2024FO1174
2024TR20011
2024TR20012
2024TR20013
2024TR20014
2024TR20015**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

VILLAGE OF WHITEFISH BAY,

PLAINTIFF-RESPONDENT,

V.

ROSS BOLINGBROKE,

DEFENDANT-APPELLANT.

APPEALS from an order of the circuit court for Milwaukee County:
LENA C. TAYLOR, Judge. *Affirmed.*

¶1 GEENEN, J.¹ Ross H. Bolingbroke, pro se, appeals the circuit court’s denial of his second motion to reopen default judgments entered against him following his failure to appear in court for two scheduled proceedings. Bolingbroke alleges that the denial of his motion deprived him of due process because the court refused his attempted appearance at the pretrial conference and because he was unable to appear at the hearing on his first motion to reopen due to injury. We disagree and affirm.

BACKGROUND

¶2 This appeal arises out of citations issued by the Village of Whitefish Bay to Bolingbroke in 2022 for resisting or obstructing an officer (forfeiture); unreasonable and imprudent speed; failure to stop at a stop sign; failure to yield or stop for an emergency vehicle; and reckless driving—endangering safety. Bolingbroke was found guilty in municipal court and appealed to the circuit court.

¶3 The combined matters were assigned to Judge Lena Taylor and a pretrial conference was scheduled for October 15, 2024. Bolingbroke requested to appear via Zoom due to the difficulties of appearing in person. The court granted Bolingbroke’s request to appear by Zoom, but at the time of the hearing, Bolingbroke attempted to appear via audio only. Due to his failure to appear in the manner prescribed by the court, it was deemed a non-appearance and the court ordered the entry of a no-contest plea and default judgment.

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

¶4 Two-and-a-half months later, on December 30, 2024, Bolingbroke filed his first motion to reopen on the grounds that he had been denied due process. Bolingbroke claimed that the circuit court had given him permission to appear at the pretrial conference by Zoom and that he did so in a timely manner via audio, but was wrongfully designated a non-appearance by the court because he was unable to appear via video. Bolingbroke further represented that he attempted to address the missed appearance promptly but was given incorrect information on how to do so by the clerk of courts. The motion was scheduled to be heard on January 21, 2025 at 3:30 p.m., but that morning, Bolingbroke faxed a letter to the court stating that he was in the hospital “with several broken ribs, among other medical issues,” and therefore was unable to attend. Bolingbroke did not appear at that afternoon’s hearing and the circuit court denied his motion to reopen.

¶5 Several months later, Bolingbroke filed a second motion to reopen, again on due process grounds. Bolingbroke claimed that he had never before missed an appearance and that he was unable to attend the January motion hearing “due to unforeseeable events that lead [sic] up to hospitalization.” He contended that he informed the court of his inability to attend before the hearing, “via a letter to the judge on January 20th, 2025,” and after the hearing, through “several correspondences[.]”

¶6 The second motion to reopen also included two documents: page one of an eight-page “After Visit Summary” from Columbia St. Mary Milwaukee Emergency Department, dated January 20, 2025, indicating that Bolingbroke had been diagnosed with a rib injury, was provided with information about “chest wall

strain,” and was prescribed acetaminophen, cyclobenzaprine,² ibuprofen, and lidocaine;³ and a letter from Security Health Plan, dated February 10, 2025, requesting more information about a “recent injury” that occurred on January 20, 2025, described as a “[f]racture of one rib, right side, initial encounter for closed fracture.” Bolingbroke argued that, in light of his “hospitalization” and prior notice provided to the court, the court violated his due process rights by refusing to reopen the matter.

¶7 The court heard his second motion to reopen in October of 2025. At the hearing, it considered the circumstances of Bolingbroke’s non-appearance at the pretrial conference and his claimed reasons for failing to appear at the January motion hearing, including the documents he submitted to prove his alleged injuries. Bolingbroke argued that the documents clearly established that he had broken ribs, a chest laceration, “liquid in the lungs,” and was on the verge of getting pneumonia. But the court disagreed. It found that Bolingbroke’s documentation did not substantiate his claimed injuries or his inability to attend the January motion hearing. The court further noted that Bolingbroke could have requested a remote appearance, but did not, and that the court would have allowed him to appear by Zoom. It also explained that parties appearing by Zoom must be

² Cyclobenzaprine is a muscle relaxant used to relieve pain, stiffness, and discomfort caused by muscle strains, sprains, or injuries. See MAYO CLINIC, <https://www.mayoclinic.org/drugs-supplements/cyclobenzaprine-oral-route/description/drg-20063236> (last visited Sept. 30, 2026).

³ Lidocaine as a local pain reliever or anesthetic. See MAYO CLINIC, <https://www.mayoclinic.org/drugs-supplements/lidocaine-topical-application-route/description/drg-20072776> (last visited Sept. 30, 2026).

present via video, therefore, because he connected by audio only at the pretrial conference, he was properly deemed a non-appearance.

¶8 Bolingbroke appeals.⁴ He argues that the circuit court’s denial of his second motion to reopen violated his constitutional due process rights. Specifically, he alleges that because the circuit court wrongfully refused his audio-only appearance at the pretrial conference and because he was then unable to attend the January motion hearing due to injury, he was denied due process. Bolingbroke states that he believed Judge Taylor would permit an audio-only Zoom appearance because other judges had allowed it. He further alleges that he notified the circuit court of his inability to attend the January motion hearing in advance, and that he submitted documents substantiating his claimed injury and inability to attend. Bolingbroke also implies that “political bias” factored into the circuit court’s denial of his motion.

¶9 The Village counters that Bolingbroke has not demonstrated “excusable neglect” under WIS. STAT. § 806.07(1)(a) and, therefore, the circuit court’s denial of his motion to reopen should be affirmed. The Village further contends that Bolingbroke’s medical documents were not timely submitted to the

⁴ We previously warned Bolingbroke in *Village of Whitefish Bay v. Bolingbroke*, Nos. 2025AP2035 and 2025AP2036 (WI App March 30, 2026) (order rejecting brief and appendix), that a party cannot supplement the record through their appendix. Nevertheless, Bolingbroke has included several documents in his appendix that are not in the record. We do not consider documents outside of the appellate record, and therefore do not consider the supplemental documents provided by Bolingbroke in his appendix. See *Reznichuk v. Grall*, 150 Wis. 2d 752, 754 n.1, 442 N.W.2d 545 (Ct. App. 1989) (providing that a party may not use the appendix to supplement the appellate record); see also *State v. Kuhn*, 178 Wis. 2d 428, 439, 504 N.W.2d 405 (Ct. App. 1993) (“We are limited by the record before us and cannot consider the extraneous material included in [an] appendix.”).

court and do not support his claimed injury and inability to attend the January hearing.⁵

¶10 We agree with the Village and conclude that the circuit court properly denied Bolingbroke’s motion to reopen and affirm.

DISCUSSION

¶11 WISCONSIN STAT. § 806.07 governs motions to reopen in general civil matters, WIS. STAT. § 801.01(2), whereas WIS. STAT. § 345.36 governs such motions related to “traffic regulations,” WIS. STAT. § 345.20(2)(a). “Traffic regulation” is defined as “a provision of [WIS. STAT.] chs. 194 or 341 to 349 for which the penalty for violation is a forfeiture[.]” Sec. 345.20(1)(b). Therefore, Bolingbroke’s motion to reopen as to the traffic offenses is governed by § 345.36, whereas his motion to reopen as to resisting or obstructing an officer is governed by § 806.07. We construe Bolingbroke’s motion as claiming “excusable neglect,”⁶ which is found in both § 806.07(1)(a) and § 345.36(2)(b) as a ground to reopen. Excusable neglect is “that neglect which might have been the act of a reasonably prudent person under the same circumstances” and “is not synonymous with

⁵ The Village also argues for affirmance on the grounds that Bolingbroke failed to set forth a meritorious defense to the underlying municipal citations. Because we resolve the case on alternate grounds, we do not consider this argument. See *State v. Blalock*, 150 Wis. 2d 688, 703, 442 N.W.2d 514 (Ct. App. 1989) (we resolve cases on the narrowest possible grounds).

⁶ Bolingbroke argues that the circuit court violated his constitutional due process rights and implies that the court was politically biased. However, because he does not develop these arguments or provide any legal authority in support, we do not address them. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633.

carelessness or inattentiveness.” *Mohns, Inc. v. TCF Nat’l Bank*, 2006 WI App 65, ¶9, 292 Wis. 2d 243, 714 N.W.2d 245 (citations omitted).

¶12 A circuit court’s denial of a motion to reopen is a discretionary decision, which we review under the “erroneous exercise of discretion” standard. See *Bank Mut. v. S.J. Boyer Const., Inc.*, 2010 WI 74, ¶20, 326 Wis. 2d 521, 785 N.W.2d 462; *State v. Patterson*, No. 2008AP1459, unpublished slip op., ¶5 (WI App July 23, 2009) (stating that the same standard of review applies to motions made pursuant to WIS. STAT. §§ 806.07 and 345.36). Under this standard, we will affirm the circuit court’s decision when it “examines the relevant facts, applies a proper standard of law, and, using a demonstrated rational process, reaches a conclusion that a reasonable judge could reach.” *Bank Mut.*, 326 Wis. 2d 521, ¶20.

¶13 While we note that the circuit court did not identify an applicable legal standard, and remind the court of the importance of making a record which clearly identifies the facts *and law* upon which its decision rests, we may nonetheless affirm so long as “‘facts of record applied to the proper legal standard support the trial court’s conclusion.’” *State v. Pittman*, 174 Wis. 2d 255, 269, 496 N.W.2d 74 (1993) (citation omitted). “Indeed, because the exercise of discretion is so essential to the trial court’s functioning, we generally look for reasons to sustain discretionary decisions.” *Burkes v. Hales*, 165 Wis. 2d 585, 591, 478 N.W.2d 37 (Ct. App. 1991) (citation modified).

¶14 Applying the “excusable neglect” standard to the facts in the record, we conclude that the circuit court’s denial of Bolingbroke’s second motion to

reopen was not an erroneous exercise of discretion. First, Bolingbroke argues that the circuit court wrongly deemed his attempt to appear at the pretrial conference by audio a “non-appearance.” It is undisputed that Bolingbroke intended to appear by audio only but requested, and received, the court’s permission to appear by Zoom. Zoom is commonly understood to be a video-conferencing platform, therefore Bolingbroke’s expectation to appear by audio only was not the expectation of a “reasonably prudent” person. Moreover, Bolingbroke did not include a transcript of the pretrial conference in the record on appeal, therefore we assume that it would support the circuit court’s ruling. See *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 27, 496 N.W.2d 226 (Ct. App. 1993); *Austin v. Ford Motor Co.*, 86 Wis. 2d 628, 641, 273 N.W.2d 233 (1979). Bolingbroke failed to appear in a manner permitted by the court and did not include a transcript of the proceeding at issue, therefore we conclude that Bolingbroke’s failure to appear at the pretrial conference was not the result of excusable neglect.

¶15 Second, Bolingbroke argues that the circuit court erred in concluding that he did not demonstrate his claimed injury and inability to attend the hearing on his first motion to reopen. Based on our review of the documents submitted by Bolingbroke—the Security Health Plan document and the first page of the Columbia St. Mary’s After Visit Summary—we agree with the circuit court that they do not adequately support his claims and, therefore, he did not demonstrate “excusable neglect.”

¶16 The After Visit Summary reflects a diagnosis of a “rib injury,” states that Bolingbroke was provided information about “chest wall strain,” and was prescribed pain killers and a muscle relaxant, suggesting that his injury was not a

broken bone, but rather, a muscle strain. There is also no evidence that he was “hospitalized”; rather, he was seen in the emergency room.

¶17 The Security Health Plan document is likewise unconvincing. It seeks more information about a “fracture of one rib” from date of service January 20, 2025, but that is not a diagnosis, nor is there any reference to a fracture in the After Visit Summary. Bolingbroke’s injuries as described in the documents are a far cry from his claim that he was “hospitalized” with “several broken ribs,” a chest laceration, and “liquid in the lungs,” and was on the verge of getting pneumonia. A “reasonably prudent” person alleging such grave injuries would provide more definitive and credible proof if such proof existed.

¶18 Moreover, regardless of the type of injury, the documents do not show that Bolingbroke was unable to attend court in-person that day, or, at the very least, to call the court and request to appear remotely. Indeed, Bolingbroke admits that he had appeared remotely in other Milwaukee County cases numerous times, and Judge Taylor stated that she would have allowed him to appear by Zoom if he had requested to do so, and did in fact allow him to appear via Zoom at the hearing on his second motion to reopen. A “reasonably prudent” person in Bolingbroke’s position would have made more of an effort to attend the scheduled hearing.

¶19 In sum, Bolingbroke failed to demonstrate “excusable neglect” and we therefore conclude that the circuit court did not erroneously exercise its discretion in denying Bolingbroke’s motion to reopen. We affirm.

By the Court.—Order affirmed.

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

