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DISTRICT III

November 24, 2026

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Circuit Court Judge
Electronic Notice

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

2023AP1989 Nicolle M. Wilson v. Mark D. Harsch
(L. C. No. 2023SC526)

Before Stark, P.J.[1]

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).

Nicolle M. Wilson, pro se, appeals from a judgment entered in this small claims action. After a bench trial, the circuit court ordered, consistent with Mark D. Harsch's stipulations on the

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

record, the return of certain items of personal property to Wilson but denied Wilson's request for the replevin of additional personal property. The court also ordered Wilson to pay Harsch $300 in attorney's fees. Wilson appears to question the sufficiency of the evidence to support the court's order and judgment. Based on our review of the briefs and record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. For the reasons that follow, we reject Wilson's arguments and affirm the judgment.

In May 2023, Wilson, then represented by counsel, filed a small claims summons and complaint seeking $10,000 and the replevin of certain personal property. Wilson claimed that she and Harsch were previously in a romantic relationship and had cohabitated for several years. Following the end of their relationship and Wilson's incarceration on November 18, 2020, various items of Wilson's personal property remained at Harsch's residence. Wilson's mother was able to obtain some of the property, but Wilson claimed that Harsch remained in possession of some of her personal property, which she listed on a document attached to the complaint. Wilson requested return of the property or money equaling the value of the items.

During the bench trial, at which both parties appeared with counsel, Harsch agreed to return to Wilson four rugs, a dark pine dresser, and a frying pan (only if it was a Pampered Chef pan) from Harsch's residence. The circuit court found no evidence that Harsch had retained the remaining items requested by Wilson. It further found credible Harsch's testimony regarding the whereabouts of an engagement ring and denied Wilson's request for the return of the ring or its value. Finally, it awarded Harsch costs of $300 in attorney's fees to be paid when the personal property was transferred to Wilson's family. Wilson appeals.

"Replevin is an action for possession" of disputed property. ***Mueller v. TL90108, LLC***, 2020 WI 7, ¶12, 390 Wis. 2d 34, 938 N.W.2d 566. "[W]hich party is entitled to possession of the disputed property becomes the ultimate fact question in a replevin action." ***Ford Motor Co. v. Lyons***, 137 Wis. 2d 397, 468, 405 N.W.2d 354 (Ct. App. 1987). The plaintiff in a replevin action has the burden to show that he or she "is entitled to possession of the property involved," that the property was unlawfully detained by the defendant, and the value of the property. WIS. STAT. § 810.13(1); ***First Nat'l Bank of Glendale v. Sheriff of Milwaukee Cnty.***, 34 Wis. 2d 535, 538, 149 N.W.2d 548 (1967).

Following a bench trial, our review is highly deferential to the circuit court's findings of fact. ***Royster-Clark, Inc. v. Olsen's Mill, Inc.***, 2006 WI 46, ¶11, 290 Wis. 2d 264, 714 N.W.2d 530. We will not disturb the circuit court's findings of fact unless they are clearly erroneous. WIS. STAT. § 805.17(2). "A circuit court's findings of fact are clearly erroneous when the finding is against the great weight and clear preponderance of the evidence." ***Royster-Clark***, 290 Wis. 2d 264, ¶12. We defer to the court's findings on witness credibility, as it had "the opportunity to observe the witness[es'] demeanor and gauge the testimony's persuasiveness." ***Jacobson v. American Tool Cos.***, 222 Wis. 2d 384, 390, 588 N.W.2d 67 (Ct. App. 1998).

On appeal, Wilson essentially argues that the circuit court's analysis of her claims was insufficient, and she seeks to relitigate the replevin action by asking us to reweigh the evidence and reassess witness credibility. As Harsch accurately identifies, Wilson's arguments (1) raise issues that were not brought before the circuit court; (2) ask us to determine questions of fact; (3) seek to introduce new testimony and reference materials not found in the record; (4) assert facts without citation to the record or that are not supported by the record; (5) request remedies

above and beyond those requested in the circuit court; and (6) fail to cite any legal authority in support of her positions.

Wilson's arguments are either undeveloped, lacking citation to legal authority, or otherwise without merit. While we acknowledge that Wilson is a pro se litigant for whom "some leniency may be allowed," pro se litigants "are bound by the same rules that apply to attorneys on appeal," ***Waushara County v. Graf***, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992), and "we will not abandon our neutrality to develop arguments" for the parties, ***Industrial Risk Insurers v. American Eng'g Testing, Inc.***, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. We will, however, address Wilson's arguments as best we can discern them.

Wilson first faults the circuit court for failing to further review the list of personal property at the bench trial and to determine the reasons why certain items were missing. She further references personal property, such as a snow plow, and a loan incurred to purchase real estate in her brief-in-chief, which were not listed on the document attached to the complaint or otherwise discussed at the bench trial. "It is well-established law in Wisconsin that those issues not presented to the [circuit] court will not be considered for the first time at the appellate level." ***Shadley v. Lloyds of London***, 2009 WI App 165, ¶25, 322 Wis. 2d 189, 776 N.W.2d 838. Thus, to the extent that Wilson addresses issues, or items, that were not raised before the circuit court, those issues are deemed forfeited. ***Tatera v. FMC Corp.***, 2010 WI 90, ¶19 n.16, 328 Wis. 2d 320, 786 N.W.2d 810; *see also* ***Young v. Young***, 124 Wis. 2d 306, 316, 369 N.W.2d 178 (Ct. App. 1985) ("The party alleging error has the burden of establishing, by reference to the record, that the error was raised before the [circuit] court.").

To the extent Wilson challenges the circuit court's findings of fact with regard to the items of personal property—i.e., whether and why certain items were missing—we reject her arguments based on our standard of review. First, it is not the role of an appellate court to sit as a factfinder, *see* ***State v. Below***, 2011 WI App 64, ¶3, 333 Wis. 2d 690, 799 N.W.2d 95, and, as we noted above, our review is highly deferential to the circuit court, *see* ***Royster-Clark***, 290 Wis. 2d 264, ¶11. We will not reweigh the evidence or assess witness credibility. Further, Wilson's arguments are either undeveloped, as she fails to specify which items of personal property she believes were insufficiently addressed; unsupported by references to legal authority; or lacking citations to the record. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992); ***Grothe v. Valley Coatings, Inc.***, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463, *abrogated on other grounds by*, ***Wiley v. M.M.N. Laufer Fam. Ltd. P'ship***, 2011 WI App 158, 338 Wis. 2d 178, 807 N.W.2d 236; WIS. STAT. RULE 809.19(1)(d), (e).

We next understand Wilson to argue that the circuit court erred by failing to find that her parents were never permitted a walk-through of Harsch's residence, which excused her inability to prove what items of personal property were missing and their location.[2] She asserts that she left a variety of personal items at Harsch's residence, and that virtually all of the items in the residence were hers, yet she could not prove what items remained at the residence because Harsh prevented her parents from inspecting the property. Again, Wilson attempts to introduce new testimony by making statements not supported by the record, *see* ***Grothe***, 239 Wis. 2d 406, ¶6,

and by referencing materials not included in the record that we cannot consider, *see* ***Jenkins v. Sabourin***, 104 Wis. 2d 309, 313, 311 N.W.2d 600 (1981) (stating that an appellate court does not consider assertions of fact that are not part of the record). She also fails to cite any relevant legal authority in support of her claims. *See* ***Pettit***, 171 Wis. 2d at 646.

Wilson next argues that the circuit court should have evaluated the value of the items of personal property at issue because she had receipts for "a vast majority of [the] items." (Formatting altered.) However, she develops no argument with regard to this assertion. *See* ***Fryer v. Conant***, 159 Wis. 2d 739, 746 n.4, 465 N.W.2d 517 (Ct. App. 1990) ("We will not consider an argument that is inadequately briefed."). Instead, the body of her argument takes issue with the court's credibility finding that Harsch did not retain her engagement ring and that he was not ordered by the court to return the ring or pay Wilson her share of its value. Again, we do not "reweigh the evidence or reassess the witnesses' credibility." *See* ***Dickman v. Vollmer***, 2007 WI App 141, ¶14, 303 Wis. 2d 241, 736 N.W.2d 202. The court found Harsch credible and Wilson incredible with regard to their testimony about the engagement ring. Wilson does not demonstrate to this court why that finding should be set aside.

Finally, Wilson appears to contend that the circuit court judge was biased against her because she was incarcerated and could not prove what she did not know and that the court did not fully permit her to try her case because it was evident the court did not want to hear the case.

[2] Wilson also claims that she should not have been responsible to pay for the cost of a moving company that she asserts Harsch required her parents to hire. The circuit court found that there was no agreement between the parties to hire a moving company and that, therefore, Wilson was responsible to pay that cost. Wilson's arguments on this issue are also inadequately briefed and lack any reference to legal authority tending to demonstrate she has an arguably meritorious claim on this issue. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

While we agree that some of the circuit court's statements were at times somewhat rude and dismissive, and we understand that Wilson did not appreciate the circuit court's style of managing the courtroom and trial process, nothing Wilson alleges supports a finding of bias or prejudice. *See* ***State v. Marcotte***, 2020 WI App 28, ¶16, 392 Wis. 2d 183, 943 N.W.2d 911 (explaining that "the burden is on the party asserting judicial bias to show by a preponderance of the evidence that the judge is biased or prejudiced" (citation omitted)). Mere disagreement with a circuit court's ruling is not enough to sustain a judicial bias claim, and "[w]e presume that a judge has acted fairly, impartially, and without bias." *See* ***Miller v. Carroll***, 2020 WI 56, ¶16, 392 Wis. 2d 49, 944 N.W.2d 542. Although the court mentioned Wilson's incarceration, it did not do so in a pejorative manner, as the date Wilson was incarcerated was relevant to the last time she saw the engagement ring. Further, the court based its credibility findings, in part, on the statements Wilson made regarding the location of the engagement ring at various times while she was living in Harsch's residence. Thus, Wilson fails to show that the court's statements evidenced a lack of impartiality. On this record, we must affirm.[3]

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. 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

[3] We have done our best to discern Wilson's arguments, but we will not abandon our neutrality to develop her arguments. *See* ***Industrial Risk Insurers v. American Eng'g Testing, Inc.***, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. Accordingly, to the extent we do not address an issue or argument Wilson intended to raise, we conclude such an issue or argument is not sufficiently developed.