COURT OF APPEALS
DECISION
DATED AND FILED

August 29, 2000

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

No. 99-0270

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

JERI LERNER, N/K/A MARCUVITZ,

PETITIONER-
RESPONDENT,

V.

HAROLD J. LERNER,

RESPONDENT-
APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County: MICHAEL P. SULLIVAN, Judge. *Affirmed.*

Before Wedemeyer, P.J., Fine and Schudson, JJ.

¶1 PER CURIAM. Harold J. Lerner appeals from the circuit court order denying his motion for reconsideration of a determination regarding his obligation for his children's 1996 and 1997 medical expenses. He contends that

the circuit court erroneously exercised its discretion in deciding his motion. We affirm.

¶2 Jeri Marcuvitz and Harold J. Lerner were divorced on November 16, 1989, after nine years of marriage. At the time of the divorce, the couple had two minor children: a daughter, born in 1982, and a son, born in 1984. The marital settlement agreement, incorporated by reference into the judgment of divorce, provided:

> Both parties shall provide medical and dental insurance on behalf of the minor children as long as it is available at no cost through their place[es] of employment. If insurance is not available to either party at no cost, the party who can secure health/medical insurance at a lesser cost shall do so and the expense shall be shared 50/50 by the parties. Thereafter, all unreimbursed or uncovered medical, dental, psychiatric/psychological, orthodontic, op[h]thalm[o]logic, prescription, and deductible expenses of the minor children shall be split equally 50/50 between the parties.
>
> Respondent/father will be responsible for his share of non-emergency, extraordinary expenses described above, provided he has been consulted in advance and gives his consent. Respondent shall not unreasonably withhold consent.

¶3 Following a hearing on July 17, 1998, the circuit court found that as of January 20, 1998, Lerner was $6,433.94 in arrears with his child support payments. Additionally, the circuit court, having determined that Lerner's obligation for the children's 1996 and 1997 medical expenses was $3,067.46, added this amount to the child support arrearage. Lerner, *pro se*, moved for a rehearing with regard to the medical expense determination, alleging:

> The grounds for said motion are that the trail [sic] court failed to review and consider the original judgement of divorce which provided that petitioner:
>
> 1) Give respondent the opportunity to obtain the same medical services, and only half [sic] to pay 1/2 of what he can get the same service for.

> 2) If petitioner does not give respondent said opportunity, then respondent owes nothing.

Following a hearing, the circuit court denied Lerner's motion. Lerner now appeals.

¶4 Lerner contends that the circuit court erroneously exercised discretion in deciding his motion. He argues:

> Judge Sullivan was familiar with the parties and knew our relative positions from a financial perspective. He was aware of my past health problems and my inability to keep employment. He also knew what the terms were with these medical bills. He chose to ignore those terms, any evidence I brought and treated me as if I didn't care for my kids. He also knew that my ex-wife had been receiving child support and a small payment on my arrears. I believe he failed to properly apply the law and made a decision which was unreasonable under the existing facts and circumstances.

¶5 Lerner's briefs to this court fail to provide any record references or appendix in support of his argument.[1] As we have noted, "[i]t is not the duty of this court to search the record to find evidentiary support for the positions of the litigants." ***State v. Alonzo R.***, 230 Wis.2d 17, 29, 601 N.W.2d 328 (Ct. App. 1999). "Additionally, when an appellate record is incomplete in connection with

[1] An appellant's brief to this court must contain an argument on each issue with citations to the parts of the record on which the appellant relies. *See* WIS. STAT. RULE 809.19(1)(e) (1997-98). Additionally, the brief is to include an appendix containing "relevant trial court record entries, the findings or opinion of the trial court and limited portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the trial court's reasoning regarding those issues." *See* WIS. STAT. RULE 809.19(2) (1997-98).

In consideration of the fact that Lerner is *pro se*, we searched the record in an attempt to evaluate the equities of the case. Although the circuit court record docket indicates that Reserve Judge Raymond E. Gieringer presided at the status conference on July 17, 1998, and determined that Lerner was responsible for half of his children's unpaid medical bills for 1996 and 1997, the appellate record does not contain any documentation indicating how Judge Gieringer reached this determination. The appellate record does contain Judge Michael P. Sullivan's order of August 17, 1998, adding the $3,067.46 for medical expenses to the child support arrearage, but there is no documentation indicating Judge Sullivan's reasoning, either.

an issue raised by the appellant, we must assume that the missing material supports the [circuit] court's ruling." ***Fiumefreddo v. McLean***, 174 Wis. 2d 10, 27, 496 N.W.2d 226 (Ct. App. 1993). Accordingly, because Lerner has failed to provide us with evidentiary or legal support for his position, we uphold the decision of the circuit court.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (1997-98).