

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**April 14, 2016**

Diane M. Fremgen  
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. 2015AP2160**

**Cir. Ct. No. 2015CV2349**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**CITY OF MADISON,**

**PLAINTIFF-RESPONDENT,**

**V.**

**RAY PETERSON,**

**DEFENDANT-APPELLANT.**

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APPEAL from an order of the circuit court for Dane County: WILLIAM E. HANRAHAN, Judge. *Affirmed and cause remanded for further proceedings.*

¶1 LUNDSTEN, J.<sup>1</sup> Ray Peterson appeals, pro se, the circuit court's order affirming a municipal court judgment against Peterson for \$4,471. The

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(b). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

respondent City of Madison moves for costs and fees as allowed for a frivolous appeal under WIS. STAT. RULE 809.25(3). For the reasons stated below, I affirm the circuit court's order. I also grant the City's motion. I remand to the circuit court for an assessment of costs and fees.

¶2 The underlying municipal court judgment in this case was based on a City prosecution of Peterson for an ongoing electrical code violation. After a bench trial, the municipal court imposed a forfeiture amount of \$100 per count per day for 35 days. Peterson sought circuit court review, and that court affirmed the municipal court.

¶3 On appeal, this court need not address arguments that are inadequately developed or that fail to adhere to our briefing standards. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). Peterson has had actual notice of our briefing standards. *See City of Madison v. Peterson*, No. 2014AP2276, unpublished slip op. ¶4 (WI App Mar. 26, 2015); *City of Madison v. Peterson*, No. 2014AP1306, unpublished slip op. ¶¶2-3 (WI App Mar. 5, 2015); *Peterson v. Stevens*, No. 2013AP709, unpublished slip op. ¶12 (WI App Oct. 24, 2013); *City of Madison v. Peterson*, No. 2013AP893, unpublished slip op. ¶7 (WI App Sept. 5, 2013).

¶4 Here, Peterson makes numerous assertions but fails to make a coherent or developed argument on any one topic. Among other shortcomings, Peterson's briefing fails to cite relevant legal authority, contains numerous factual propositions lacking record citations, and appears to include information outside the record. In short, Peterson's arguments fall far short of what is required, and I reject them on that basis. *See Pettit*, 171 Wis. 2d at 646-47.

¶5 I turn to the City’s motion. An appeal is frivolous under WIS. STAT. RULE 809.25(3) when “filed, used or continued in bad faith, solely for purposes of harassing or maliciously injuring another,” or when a party or party’s attorney “knew, or should have known, that the appeal or cross-appeal was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.” See RULE 809.25(3)(c). Peterson has had actual notice of our standards for frivolous appeals. See *Peterson*, No. 2014AP2276, unpublished slip op. ¶5 (concluding that Peterson’s appeal in that case was frivolous).

¶6 Applying these standards, I agree with the City that Peterson’s appeal is frivolous based on the second alternative. Peterson’s appeal seems to consist of four main arguments, none of which has a reasonable basis in law or equity or is supported by a good faith argument for an extension of or change in the law.

¶7 Peterson’s primary argument appears to be that the City selectively or vindictively prosecuted him. However, Peterson fails to apply or even acknowledge the applicable legal standards, just as he also failed to do in a prior appeal making this same claim. See *Peterson*, No. 2013AP893, ¶11. If Peterson had applied the proper legal standards, he should have known that the factual assertions in his briefing would not demonstrate selective prosecution. I will give one example. Peterson points to what appears to be testimony from a different case. In that testimony, a City employee explained that the City required Peterson to replace, rather than repair, wooden “members” because, in the past, Peterson would cut out rotten portions of “members” and try to pass them off as structurally sound. This testimony is not evidence of selective prosecution. That is, this testimony does not begin to support an allegation that Peterson was subject to the

type of persistent and intentional discrimination required to show such a claim. *See, e.g., State v. Kramer*, 2001 WI 132, ¶¶13-18, 248 Wis. 2d 1009, 637 N.W.2d 35 (setting forth selective prosecution standards). Peterson's selective prosecution argument is frivolous.

¶8 Peterson's second and third arguments rely on the above testimony and other evidence from different cases, including testimony relating to what another City employee told certain contractors about Peterson. Both of these arguments appear directed at proceedings in other cases and have no apparent relevance here. Thus, these two arguments are also frivolous in the context of this appeal.

¶9 Peterson's fourth argument appears to be that the municipal court acted unreasonably in imposing a \$100 per count per day forfeiture for Peterson's ongoing code violation. However, as best I can tell, Peterson bases this argument on factual disputes that were resolved against him in the municipal court. Beyond that, Peterson's argument is simply incoherent. Thus, Peterson's argument as to the forfeiture amount is frivolous.

¶10 Thus, for the reasons stated above, I affirm the circuit court's order, and I conclude that Peterson's appeal is frivolous. I remand to the circuit court for an assessment of costs and fees as allowed by WIS. STAT. RULE 809.25(3).

*By the Court.*—Order affirmed and cause remanded for further proceedings.

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

