



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

May 9, 2018

To:

Hon. Robert J. Wirtz
Circuit Court Judge
Fond du Lac County Courthouse
160 S. Macy St.
Fond du Lac, WI 54935

Ramona Geib
Clerk of Circuit Court
Fond du Lac County Courthouse
160 S. Macy St.
Fond du Lac, WI 54935

Douglas R. Edelstein
Assistant District Attorney
160 S. Macy St.
Fond du Lac, WI 54935

Kathilynne Grotelueschen
Assistant State Public Defender
P.O. Box 7862
Madison, WI 53707

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

2017AP2359

In re the Finding of Contempt in: State of Wisconsin
v. Shafia M. Jones (L.C. #2017CF581)

Before Reilly, 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).

Shafia M. Jones appeals from a circuit court order finding her in contempt of court for refusing to sign a bail/bond form. Based upon our review of the briefs and record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. As Jones

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(h) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

cannot be compelled to sign a bond form, she did not commit a contempt of court, and we summarily reverse.

The State charged Jones with one count of battery by prisoner under WIS. STAT. § 940.20(1) as a repeater for stabbing her cellmate at Taycheedah Correctional Institution with a pencil. At her initial appearance, the court ordered, over Jones' objection, a \$1000 signature bond with a no contact provision.² At the preliminary hearing, the court noted that Jones had never signed the bond form and "she needs to sign it." Jones' counsel informed the court that Jones "is declining to sign the bond," and the court responded that "either she's on no bond or the Court will order her to sign the bond, she'll be in contempt of court for failing to abide by the Court's order to sign the bond." Jones explained that she was "refus[ing] to sign the bond ... because a signature bond does me no justice.... I'm not in agreeance with the signature bond." The court found that Jones had "violated the Court's order to sign the bond form, which is required in all cases, and [that Jones] impeded the authority and the decorum of the court today" and ordered an additional thirty days for contempt of court. Jones appeals.

We note that the State elected not to file a response brief in this case. "We may summarily reverse a judgment or order if the respondent fails to file a brief, [WIS. STAT. RULE] 809.83(2), and we usually do. Failure to file a respondent's brief tacitly concedes that the trial court erred." *State ex rel. Blackdeer v. Levis*, 176 Wis. 2d 252, 260, 500 N.W.2d 339 (Ct. App. 1993) (citation omitted); see also *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90

² A bond is "an undertaking either secured or unsecured entered into by a person in custody by which the person binds himself or herself to comply with such conditions as are set forth therein." WIS. STAT. § 967.02(1h).

Wis. 2d 97, 108-109, 279 N.W.2d 493 (Ct. App. 1979) (“Respondents on appeal cannot complain if propositions of appellants are taken as confessed which they do not undertake to refute.” (citation omitted)). We summarily reverse the circuit court’s decision given the State’s abandonment of the appeal, but we also address the merits.

Under WIS. STAT. § 785.02, the court “may impose a remedial or punitive sanction for contempt of court,” which includes intentional “[m]isconduct in the presence of the court which interferes with a court proceeding or with the administration of justice, or which impairs the respect due the court,” WIS. STAT. § 785.01(1). The circuit court in this case utilized the summary contempt procedure under WIS. STAT. § 785.03(2), which allows the court to impose sanctions “immediately” to preserve “order in the court and protect[] the authority and dignity of the court.” We review a finding of contempt under an erroneous exercise of discretion standard. *State v. Kruse*, 194 Wis. 2d 418, 427-28, 533 N.W.2d 819 (1995).

We conclude that the circuit court’s finding that Jones committed a contempt of court is clearly erroneous. Jones was not required to sign her bond form.³ See *State v. Wilcenski*, 2013 WI App 21, ¶18, 346 Wis. 2d 145, 827 N.W.2d 642 (“[The defendant] had the right to decline [conditions of bail] and await his trial in the confines of the county jail.”); *State v. Dewitt*, 2008 WI App 134, ¶17, 313 Wis. 2d 794, 758 N.W.2d 201 (“[The defendant] was not obligated to sign the bond, especially if he knew he would not be posting cash bond.”). As Jones implicitly recognized, signing the bond form “does [her] no justice” when she was already incarcerated for

³ It is clear from the record that the court was concerned about ensuring that a no contact order with the victim would be in effect for Jones while she was incarcerated. As Jones’ attorney explained at the hearing, the court was authorized to order no contact outside the context of the bond conditions. See WIS. STAT. § 940.47.

a separate crime as it would have subjected her to the possibility of additional criminal charges. See *Dewitt*, 313 Wis. 2d 794, ¶14 (explaining that the definition of “release” for the purposes of WIS. STAT. § 946.49, the bail jumping statute, “refers to the defendant posting the bond, be it signature or cash, and need not be accompanied by the defendant’s physical departure from the jailhouse”). As Jones was not required to sign her bond form and the record indicates that she refused to do so in a respectful manner, her behavior at the hearing cannot fairly be described as intentional “[m]isconduct” or “[d]isobedience, resistance or obstruction of the authority, process or order of a court.” See WIS. STAT. § 785.01. We therefore reverse the circuit court’s order finding Jones in contempt of court.

IT IS ORDERED that the order of the circuit court is summarily reversed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals