

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 3, 2011

A. John Voelker
Acting 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. 2010AP1115

Cir. Ct. No. 2003PA22

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

IN RE THE PATERNITY OF D. D. B.:

DOUGLAS COUNTY CHILD SUPPORT AGENCY AND DEBRA KAUTI,

PETITIONERS-RESPONDENTS,

v.

HOSSAIN KHOROOSI,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Douglas County:
GEORGE L. GLONEK, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Brunner, JJ.

¶1 PER CURIAM. Hossain Khorroosi, pro se, appeals from an order denying a petition to waive the fees and costs of a hearing transcript. The circuit

court found that Khorooosi was not indigent and therefore was not eligible for a free transcript. We affirm.

¶2 Khorooosi was named in a paternity action. Khorooosi denied paternity at the initial paternity hearing. Numerous proceedings have been conducted regarding paternity and child support obligations.¹ A motion to reduce child support was recently denied by the circuit court, and Khorooosi subsequently filed a petition for waiver of fees and costs for the transcript of the hearing. As part of the petition, he disclosed his income, assets and liabilities. Khorooosi's gross income as a contract instructor at the University of Wisconsin–Superior during the nine month academic year was \$2,570.72 monthly, or \$23,136.48 yearly. He listed his net income as \$1,336.18 monthly, or \$12,025.62 for nine months. The circuit court denied the petition for waiver of fees because the court found he was not indigent. Khorooosi now appeals the order denying his petition.

¶3 Whether fees and costs for transcripts should be waived by the court is governed by WIS. STAT. § 814.29.² A litigant is entitled to free transcripts on appeal of a civil case when the circuit court determines both that the litigant is indigent, and that the appeal has arguable merit. *See State ex rel. Girouard v. Jackson County Cir. Ct.*, 155 Wis. 2d 148, 159, 454 N.W.2d 792 (1990). Underlying this discretionary decision are issues of fact and law. We uphold a

¹ Although not discussed in the parties' briefs, it appears from the record that Khorooosi repeatedly refused to submit to court ordered genetic testing, and a default judgment was entered for paternity and a child support obligation.

² Khorooosi misplaces reliance upon *State v. Nieves-Gonzalez*, 2001 WI App 90, 242 Wis. 2d 782, 625 N.W.2d 913 (regarding appointment of counsel), and WIS. STAT. § 49.145 (regarding Wisconsin Works employment positions).

References to the Wisconsin Statutes are to the 2009-10 version unless noted.

factual finding unless it is clearly erroneous. WIS. STAT. § 805.17(2). We search the record for evidence to support findings reached by the circuit court, not for evidence to support findings the court did not but could have reached. See *In re Estate of Dejmal*, 95 Wis. 2d 141, 154, 289 N.W.2d 813 (1980). We review issues of law de novo. *Rosplock v. Rosplock*, 217 Wis. 2d 22, 32-33, 577 N.W.2d 32 (Ct. App. 1998).

¶4 On appeal, Khorooosi solely addresses whether the circuit court properly found he was not indigent. He argues the federal poverty guidelines should be utilized in determining indigency.³ In this regard, he suggests the court should have imputed only his take-home pay of \$12,025.62 in considering whether he falls below the federal poverty guideline.

¶5 Irrespective of whether gross or net income is used to establish his indigency, Khorooosi's income for nine months of the year places him above the federal poverty guideline that Khorooosi cites for a one-person family.⁴ Furthermore, the Douglas County Child Support Agency responds that Khorooosi has not raised any issue as to his inability to work beyond the nine-month academic year. Khorooosi fails to reply to this issue and we therefore deem the issue conceded. See *Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979). Accordingly, Khorooosi will not be heard to argue that he is being denied access to the justice system because

³ The Douglas County Child Support Agency does not dispute that the federal poverty guidelines are applicable.

⁴ Khorooosi suggests the 2009 federal poverty guideline for one person is \$10,830.

of an inability to pay for a transcript when he has failed to work to his full earning capacity.

By the Court.—Order affirmed.

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

