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DISTRICT IV

November 7, 2024

To:

Hon. Timothy J. Gaskell
Circuit Court Judge
Electronic Notice

William W. Cassel
Electronic Notice

Sheila Olson
Clerk of Circuit Court
Vernon County Courthouse
Electronic Notice

Ryan X. Farrell
Electronic Notice

Lars Skolos
Electronic Notice

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

2023AP1685

Lars Skolos v. Labor and Industry Review Commission
(L.C. # 2023CV10)

Before Kloppenburg, P.J., Graham, and Nashold, JJ.

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).

Lars Skolos, pro se, appeals a circuit court order affirming a Labor and Industry Review Commission decision that dismissed Skolos's petition for Commission review of an adverse Department of Workforce Development decision (the "appeal tribunal decision"). Skolos also appeals the court's order denying his motion for reconsideration.¹ The issue is whether the Commission properly concluded that Skolos failed to establish good cause for filing his petition

¹ Although Skolos's notice of appeal is ambiguous as to which of the circuit court's orders he is appealing, we construe the notice of appeal as encompassing both orders. Regardless, the issue on appeal is the same.

beyond the statutory deadline. Based on our review of the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1).² We affirm.

The applicable statute provides that a petition for Commission review must be “received by the [C]ommission or postmarked within 21 days after the appeal tribunal decision was electronically delivered to the party or mailed to the party’s last-known address.” WIS. STAT. § 108.09(6)(a). The statute further provides that the Commission “shall dismiss” a petition that is not filed within this deadline “unless the petitioner shows good cause that the reason for having failed to file the petition timely was beyond the control of the petitioner.” Sec. 108.09(6)(a).

Here, the Commission found that Skolos filed his petition more than nineteen months after the statutory deadline and that he had not shown good cause for the untimely filing. Skolos had alleged in his petition that his filing was not timely for two reasons: (1) the copy of the appeal tribunal decision sent to him did not include a written explanation of his administrative appeal rights, and (2) agency staff provided him with incorrect information regarding the administrative appeal process.³ The Commission found that these allegations were not credible and, based on that finding, the Commission concluded that Skolos had not established good cause for his untimely filing. The circuit court agreed with the Commission’s conclusion.

² All references to the Wisconsin Statutes are to the 2021-22 version.

³ We construe Skolos’s petition allegations liberally, as did the Commission.

On appeal, we review the Commission’s decision, not the circuit court’s decision. *Hill v. LIRC*, 184 Wis. 2d 101, 109, 516 N.W.2d 441 (Ct. App. 1994). In this case, the Commission’s decision turns on its credibility finding. If we uphold that finding, then we agree with the Commission’s legal conclusion that Skolos has not shown good cause for his untimely filing.⁴

Our review of the Commission’s credibility finding is highly limited. “We may not substitute our judgment for [the Commission]’s as to the credibility of witnesses or the weight to be accorded to the evidence.” *Id.* at 111. “[E]ven if [the Commission]’s findings appear contrary to the great weight and clear preponderance of the evidence, we must uphold them if they are supported by any credible evidence.” *Id.*

Here, Skolos does not point to any evidence in the record that supports overturning the Commission’s finding that the allegations identified above were not credible. Moreover, Skolos now appears to concede, contrary to the allegations in his petition about the absence of appeal rights, that he received a written explanation of his administrative appeal rights. He now asserts that he realized after filing his petition that he received the written explanation, and he argues that he did not notice the written explanation sooner due to his attention deficit disorder. This argument was not part of the allegations that he made in his petition.⁵ For this reason, this

⁴ We review the Commission’s legal conclusion de novo. *Tetra Tech EC, Inc. v. DOR*, 2018 WI 75, ¶84, 382 Wis. 2d 496, 914 N.W.2d 21. The Commission argues that we should give due weight to its experience, technical competence, and specialized knowledge in interpreting the statutory standard for good cause. *See id.*, ¶108. However, the Commission does not persuade us that there is anything about its experience, technical competence, or specialized knowledge that informs the interpretation of this statutory standard.

⁵ Although Skolos referenced his attention deficit disorder in his petition, he did not allege that there was any connection between the attention deficit disorder and the untimely filing of his petition. Rather, he alleged that his attention deficit disorder was the reason why he may have provided incorrect answers or misunderstood certain information during telephonic hearings.

argument falls outside the scope of our review of the Commission's decision and it does not provide grounds to overturn that decision. The same is true of other arguments and factual assertions that Skolos makes on appeal but did not include in his petition.

Therefore,

IT IS ORDERED that the circuit court's orders are summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

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

Samuel A. Christensen
Clerk of Court of Appeals