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**DISTRICT III**

March 25, 2025

*To:*

Hon. D. Todd Ehlers  
Circuit Court Judge  
Electronic Notice

David D. Daul  
Electronic Notice

Rebecca Deterville  
Clerk of Circuit Court  
Kewaunee County Courthouse  
Electronic Notice

Steven A. Tyus  
Electronic Notice

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

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2023AP821

Steven A. Tyus v. Heather Richmond (L. C. No. 2020CV54)

Before Stark, P.J., Hruz and Gill, 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).**

Heather Richmond, now known as Heather Wilson, and Eluster E. Wilson III<sup>1</sup> appeal a judgment ordering them to return Luna, a white German Shepherd, to Steven A. Tyus following Tyus's action for replevin. Based upon our review of the briefs and record, we conclude at

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<sup>1</sup> Because the circuit court referred to Heather Wilson as Ms. Wilson throughout this litigation, we will refer to her as Wilson in this decision. Any references to Eluster Wilson will include his first name, and any reference to Heather and Eluster collectively will refer to them as "the Wilsons."

conference that this case is appropriate for summary disposition, and we affirm. *See* WIS. STAT. RULE 809.21 (2023-24).<sup>2</sup> We summarily affirm the judgment of the circuit court.

Tyus and Wilson met in March 2015 and moved in together later that year. Tyus helped his adult daughter purchase Luna in early 2018, paying over half the purchase price. In the middle of 2018, when his daughter’s living situation changed and she could no longer care for Luna, Tyus took Luna to live with him and Wilson.

Tyus and Wilson’s relationship ended in January 2020. Around the same time the relationship ended, Tyus was incarcerated for several months, during which time Wilson possessed property alleged to have belonged to Tyus—including Luna.

In July 2020, Tyus filed a replevin action against Wilson for the property she still had in her possession after their relationship ended, which included Luna. The circuit court held a bench trial in 2023, and the court subsequently issued a written decision that awarded possession of Luna to Tyus.

In support of its decision, the circuit court referenced the fact that Tyus paid over half the purchase price for Luna and found that a number of exhibits “clearly establish that up until January 23, 2020, Mr. Tyus was Luna’s owner.” The court explained:

Mr. Tyus testified that he financially assisted his daughter purchasing Luna in 2018. He testified his daughter paid \$600 of that purchase price and that he paid \$700 of it. He further testified that his daughter later determined she couldn’t care for and keep Luna and he eventually ended up with her.

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<sup>2</sup> All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

Mr. Tyus submitted Exhibits A, B, C, and D at trial in support of his claim of ownership of Luna. Exhibit A is a copy of emails apparently between him and whomever the puppy Luna was purchased from. He and this person were trying to make arrangements regarding his picking Luna up. At page 3 on Exhibit A, Mr. Tyus says as follows: “Will see you at 1:00 p.m. on Monday! [My daughter] is super excited and can’t wait to hold it. I already have first dibs if she for some reason can no longer care for it.” This clearly corroborates Mr. Tyus’s testimony that he was assisting his daughter in purchasing Luna.

At page 5 of Exhibit B, there is a December 16, 2019[] notation from Chief Gulbrand of the Luxemburg Police Department as follows: “I checked village dog license records and found a white [G]erman [S]hepherd named Luna ... owned by Steven Tyus.” Exhibit C identifies Steven Tyus as Luna’s Pet Parent. On page 12 of Exhibit D there is a November 23, 2020[] note in the Animal Hospital of Howard records as follows: “[Tyus] was confused as to how [Wilson] could just change info on account. [We] explained that medical records do not change and show he had been here with Luna and had been listed as an owner, but that pets do change owners frequently, as well as addresses change so it is not unusual for people to call to update that type of info.”

(Emphasis omitted.)

The circuit court also found unpersuasive Wilson’s evidence and argument that she was Luna’s owner, noting:

Ms. Wilson in her testimony is now asserting ownership of Luna. It is undisputed she has had possession of Luna since Mr. Tyus went to jail in January of 2020 and been financially responsible for her since that time....

As I have already noted, clearly [Tyus] was Luna’s owner as of January 23, 2020. There is nothing in this record evidencing he ever intended to transfer ownership of Luna to Ms. Wilson. Ms. Wilson caring for Luna over the past three years does not change who her owner was.... Luna is Mr. Tyus’s dog.

The Wilsons filed a motion for reconsideration, which was denied. This appeal follows.

In this case we have multiple parties who feel a sense of connection with, and ownership over, one dog. “Dogs belong to a distinct class of domestic animals.” *Hagenau v. Millard*, 182 Wis. 544, 548, 195 N.W. 718 (1923). We consider them “companions and playmates ... protectors of life and of property, and [they] generally manifest human instincts and emotions in a very marked degree.” *Id.* However, dogs are “considered property, and the owners are protected in their property rights by law.” *Id.*

“Replevin is an action for possession” of disputed property. *Mueller v. TL90108, LLC*, 2020 WI 7, ¶12, 390 Wis. 2d 34, 938 N.W.2d 566. “[W]hich party is entitled to possession of the disputed property becomes the ultimate fact question in a replevin action.” *Ford Motor Co. v. Lyons*, 137 Wis. 2d 397, 468, 405 N.W.2d 354 (Ct. App. 1987). To succeed on a replevin claim, the plaintiff has the burden to show that “the plaintiff is entitled to possession of the property involved” and that the property was unlawfully detained by the defendant. WIS. STAT. § 810.13(1); *see also First Nat’l Bank of Glendale v. Sheriff of Milwaukee Cnty.*, 34 Wis. 2d 535, 538, 149 N.W.2d 548 (1967).

Whether a circuit court’s judgment in replevin complied with WIS. STAT. §§ 810.13 and 810.14 is a question of law that this court reviews independently. *Global Steel Prods. Corp. v. Ecklund*, 2002 WI App 91, ¶11, 253 Wis. 2d 588, 644 N.W.2d 269. We will not disturb the circuit court’s findings of fact, however, unless they are clearly erroneous. WIS. STAT. § 805.17(2). “It is not within our province to reject an inference drawn by a fact finder when the inference drawn is reasonable.” *Global Steel Prods. Corp.*, 253 Wis. 2d 588, ¶10. “We will search the record for evidence to support the findings that the [circuit] court made, not for findings that the [circuit] court could have made but did not.” *Id.* “The [circuit] court is the arbiter of the credibility of witnesses, and its findings will not be overturned on appeal unless

they are inherently or patently incredible or in conflict with the uniform course of nature or with fully established or conceded facts.” *Id.*

On appeal, the Wilsons challenge the circuit court’s finding that Tyus is Luna’s owner. They argue that the trial evidence shows Tyus’s daughter was Luna’s true owner; Tyus’s daughter effectively abandoned Luna; and because Wilson cared for Luna from January 2020 until the court’s judgment in 2023, Wilson is now Luna’s owner. The Wilsons also argue that Wilson should be considered Luna’s owner under the “best interests of a companion animal” standard enacted in some jurisdictions outside Wisconsin. *See, e.g., L.B. v. C.C.B.*, 175 N.Y.S.3d 705 (N.Y. Sup. Ct. 2022).

As noted, however, our role is to determine whether there is support for the circuit court’s finding, not to reweigh the evidence. *See Global Steel Prods. Corp.*, 253 Wis. 2d 588, ¶10. Here, the evidence in the record amply supports the court’s findings of fact. Furthermore, we are not persuaded that Luna should be awarded to Wilson under the “best interests of the companion animal” standard because it has no basis in Wisconsin law. *See State v. Muckerheide*, 2007 WI 5, ¶7, 298 Wis. 2d 553, 725 N.W.2d 930 (“Although a Wisconsin court may consider case law from ... other jurisdictions, ... such case law is not binding precedent in Wisconsin, and a Wisconsin court is not required to follow it.”).

Therefore,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*