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DISTRICT II

May 28, 2025

To:

Hon. Jerilyn M. Dietz
Circuit Court Judge
Electronic Notice

Joseph M. Pozorski
Electronic Notice

April Higgins
Clerk of Circuit Court
Manitowoc County Courthouse
Electronic Notice

Justin F. Wallace
Electronic Notice

Raymond M. Mikeal Jr.
138 McKinley St.
Two Rivers, WI 54241

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

2024AP200

Andrew John Lade v. Raymond M. Mikeal, Jr. (L.C. #2020CV289)

Before Gundrum, P.J., Neubauer, and Grogan, 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).

Raymond J. Mikeal, Jr., pro se, appeals from a judgment of the circuit court ordering him to pay damages to Andrew John Lade, who was working as a police officer when Mikeal bit Lade's bicep and stabbed him once in each leg. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).¹ For the following reasons, we summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

Mikeal was convicted of aggravated battery with use of a dangerous weapon, battery to a law enforcement officer, causing substantial bodily harm while resisting a law enforcement officer, four counts of felony bail jumping, and two misdemeanors for carrying a concealed knife and resisting after a jury trial. The convictions are related to an incident in which Mikeal seriously injured Lade when biting his bicep and stabbing him twice in the back of the legs, after aggressively yelling at and threatening him, during a “tussle” that occurred when law enforcement was investigating a report of human remains on Mikeal’s property. Mikeal had tried to run from Lade, who was readily identifiable as a police officer, and resisted Lade’s efforts to detain him for safety reasons. The injuries inflicted by Mikeal resulted in physical pain requiring rehabilitation, lost overtime opportunities, and emotional trauma and suffering.

After Mikeal was criminally convicted, Lade filed a civil complaint seeking compensatory and punitive damages for battery. Lade moved for summary judgment, which was denied. A series of judicial substitution requests resulted in the trial being set over before Lade withdrew his request for a jury trial, and the parties agreed on a date for a trial to the court. Mikeal, whose attorney for the civil trial had withdrawn from representation, planned to proceed to trial pro se.

On the morning of the trial, the trial court reported that Mikeal’s sister had contacted it several times over the last week indicating that Mikeal now wanted an attorney to represent him. Although he had not yet even spoken with any attorney, Mikeal sought a continuance of the trial to accommodate whichever attorney he ultimately hired. The court denied the continuance. It noted the untimeliness of the request: the trial had been “set for quite a long period of time. And only in the last week have we received any requests to move it to accommodate an attorney.” Mikeal persisted in his request for a continuance, telling the court that he was unprepared and did

not have the paperwork he needed for trial with him. In response to Mikeal's complaints, the court indicated that instead of further delaying the trial, Lade's attorney would provide Mikeal access to exhibits and transcripts as needed during the trial.

After the close of evidence, the trial court found Mikeal liable for battery. The court rejected Mikeal's defense "that Officer Lade knew the risks of his job and, therefore, consented to being stabbed twice and bitten[.]" The court considered the applicable jury instructions and the parties' arguments as to damages, ordering Mikeal to pay Lade \$239,273.72 in total damages.

As to punitive damages, the trial court ordered Mikeal to pay \$200,000. The court made specific findings regarding the propriety of punitive damages, including that Mikeal's aggression toward Lade was one of "the most malicious and grievous of acts that has come before this [c]ourt[.]" Mikeal did not present evidence of his inability to pay punitive damages, and the court found "it is clear that there is some ability to pay, and will be ability to pay in the near future." Mikeal appeals.

Mikeal raises three issues. He first argues that the trial court violated his constitutional right to due process by denying the eleventh-hour request for a continuance of the scheduled civil trial. Mikeal next contends that the court improperly failed to consider his assets and earning ability when ordering him to pay damages. Finally, Mikeal argues that the trial court judge should have recused herself from proceeding over his civil trial.

We first address Mikeal's argument that the trial court "erroneously denied [him] the right to fair trial" by denying his last-minute motion for a continuance. Mikeal fails to present or apply the appropriate standard of review. The decision whether to grant or deny a motion to continue a trial is committed to the court's discretion. *State v. Leighton*, 2000 WI App 156, ¶27,

237 Wis. 2d 709, 616 N.W.2d 126. We affirm a court’s exercise of discretion “if the court applie[d] the proper standard of law and, using a demonstrated rational process, reach[ed] a conclusion that a reasonable court could reach.” *Estate of Rille v. Physicians Ins. Co.*, 2007 WI 36, ¶39, 300 Wis. 2d 1, 728 N.W.2d 693.

Mikeal maintains that his right to a fair trial was violated by the trial court’s denial of a continuance and holding the trial when Mikeal told the court he was unprepared. The court considered that such a delay would cause inconvenience to the court and the opposing party. A court has “inherent authority to decide, on the specific facts before it, whether the interests of efficiency and fairness will or will not be best served by a continuance or adjournment.” *State v. Chvala*, 2003 WI App 257, ¶21, 268 Wis. 2d 451, 673 N.W.2d 401. The court here found that continuing the trial would result in substantial delay and inconvenience, both of which are appropriate and reasonable factors for the court to consider. Accordingly, the court reasonably exercised its discretion in denying Mikeal’s motion for a continuance.

Mikeal next takes issue with the trial court’s award of \$200,000 in punitive damages. However, rather than arguing within the applicable framework for our review of a court’s award of punitive damages in a civil case, Mikeal contends that the court erred in failing to consider the standards set forth in the criminal restitution statute, WIS. STAT. § 973.20. The criminal restitution statute does not apply in a civil context. Rather, in determining the appropriate amount of punitive damages, a trial judge must apply the same factors a jury would apply. *White v. Ruditys*, 117 Wis. 2d 130, 142, 343 N.W.2d 421 (Ct. App. 1983). Those factors are the grievousness of the wrongdoer’s acts, the degree of malicious intent, the potential damage that might have been caused by such acts as well as the actual damage caused, and the defendant’s ability to pay. *Id.*

We have previously summarized Mikeal’s conduct, the intentions behind his actions, and the grievous effects it had on Lade. The trial court explicitly found Mikeal’s conduct to be extreme and outrageous and specifically found Mikeal capable of paying the award. We are satisfied that the court considered the necessary factors in determining the amount to be awarded, and that the award is supported by the evidence. *See Weiss v. United Fire & Cas. Co.*, 197 Wis.2d 365, 398, 541 N.W.2d 753 (1995) (explaining that we will not overturn a punitive damages award if there is any credible evidence in the record to support it).

Finally, Mikeal argues that he was denied the right to a fair trial by the trial judge’s failure to recuse herself from presiding over the civil proceedings due to alleged judicial bias. “The right to an impartial judge is fundamental to our notion of due process.” *State v. Goodson*, 2009 WI App 107, ¶8, 320 Wis. 2d 166, 771 N.W.2d 385. When evaluating a judicial bias claim, we presume that the judge has acted fairly, impartially, and without bias. *Id.* To overcome this presumption, the party asserting judicial bias must show either subjective or objective bias by a preponderance of the evidence. *See Miller v. Carroll*, 2020 WI 56, ¶21, 392 Wis. 2d 49, 944 N.W.2d 542.

We conclude that Mikeal has failed to meet his burden to rebut the presumption that the trial court judge acted fairly, impartially, and without bias. *Id.* Additionally, Mikeal has forfeited his right to raise judicial bias or the trial court’s failure to recuse on appeal by failing to present evidence that he ever raised this issue with the trial court. *See State v. Ndina*, 2009 WI 21, ¶30, 315 Wis. 2d 653, 761 N.W.2d 612 (explaining the forfeiture rule “enable[s] the circuit court to avoid or correct any error with minimal disruption of the judicial process, eliminating the need for appeal”). Mikeal has failed to present any evidence to support his claim of judicial bias requiring recusal.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals