

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

August 7, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-2693**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

**CHERYL PUTZ,**

**Plaintiff-Respondent,**

**v.**

**TARLY S. DALL,**

**Defendant,**

**CARDSERVICE MIDWEST, INC.,**

**Garnishee-Defendant-Appellant.**

APPEAL from an order of the circuit court for Waukesha County:  
PATRICK L. SNYDER, Judge. *Affirmed and cause remanded.*

NETTESHEIM, J. Cardservice Midwest, Inc., a garnishee defendant, appeals from a circuit court order confirming a judgment previously entered by a judicial court commissioner. Because Cardservice has not provided us with a record of the relevant circuit court proceedings, we affirm the order.

Cheryl Putz obtained a judgment against Tarly S. Dall in a small claims action. Putz then commenced the instant garnishment action against Cardservice, Dall's employer. In due course, the court commissioner to whom the matter was assigned entered judgment against Cardservice for the full amount of the judgment. Cardservice sought de novo review of the court commissioner's judgment in the circuit court. See § 799.207(3), (5), STATS. Although we have no record of the circuit court proceedings, Dall apparently argued that his earnings were not subject to garnishment because his income was below the poverty level. See §§ 812.34(2)(b)1 and 812.38(1)(b), STATS. The circuit court confirmed the judgment previously entered by the court commissioner.

On appeal, Cardservice argues that the court commissioner erred. However, we do not review rulings of a court commissioner. *State v. Trongeau*, 135 Wis.2d 188, 191-92, 400 N.W.2d 12, 13-14 (Ct. App. 1986). Circuit courts, not court commissioners, issue appealable orders. See *id.* at 192, 400 N.W.2d at 14.

As to the circuit court's ruling, Cardservice has provided us only with the clerk's minute sheet from the de novo hearing and the court's final written order. However, these documents simply reflect the court's ultimate ruling confirming the court commissioner's prior judgment. Neither document explains the court's rationale or logic in reaching its decision.

The scope of this court's review is necessarily limited to the record before us. *D.L. v. Huebner*, 110 Wis.2d 581, 597, 329 N.W.2d 890, 897 (1983). The appellant has the burden to provide this court with the record necessary to

review the issues raised. See *State Bank of Hartland v. Arndt*, 129 Wis.2d 411, 423, 385 N.W.2d 219, 225 (Ct. App. 1986). In the absence of a trial transcript, this court will assume that the facts necessary to sustain the trial court's decision are supported by the record. *Suburban State Bank v. Squires*, 145 Wis.2d 445, 451, 427 N.W.2d 393, 395 (Ct. App. 1988).<sup>1</sup> And even if the question is purely one of law, we are entitled to, and we value, a trial court's decision. See *Scheunemann v. City of West Bend*, 179 Wis.2d 469, 475, 507 N.W.2d 163, 165 (Ct. App. 1993).

Since Cardservice has failed to provide us with the record necessary to review the correctness of the trial court's decision, we are left with nothing of substance to review.<sup>2</sup> We therefore affirm the circuit court order.

In light of the above holding, we also grant Putz's request for fees and costs against Cardservice for a frivolous appeal pursuant to RULE 809.25(3), STATS. We remand this issue to the circuit court for a hearing as to Putz's fees and costs.<sup>3</sup>

*By the Court.* – Order affirmed and cause remanded.

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<sup>1</sup> Cardservice contends that the parties did not present any testimony at the de novo proceeding in the circuit court. However, the parties may well have presented certain factual data to the court via stipulation or within their arguments upon which the court relied. We are entitled to know that information when we are asked to review the trial court's decision. Given Dall's claim of poverty, it appears that the issue may be, at least in part, fact driven.

<sup>2</sup> We assume, pursuant to SCR 71.01, that the circuit court proceeding was reported.

<sup>3</sup> Since Putz has appeared pro se on this appeal, it appears that she is not entitled to any attorney's fees.

This opinion will not be published. See RULE 809.23(1)(b)4, STATS.