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**DISTRICT IV**

December 4, 2025

*To:*

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Circuit Court Judge  
Electronic Notice

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David L. Dittberner  
Electronic Notice

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

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2024AP896

In re the Estate of Doris Ellen Dittberner: David L. Dittberner v.  
Kristine A. Opalewski (L.C. # 2022PR51)

Before Graham, P.J., Kloppenburg, Taylor, 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).**

David Dittberner appeals a circuit court judgment in a probate action that awarded David and each of his siblings equal shares of their mother Doris Dittberner's estate, including the proceeds from a claim that the estate filed against the care facility in which Doris was living

when she died.<sup>1</sup> Based on our review of the briefs and record, we conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).<sup>2</sup> We summarily affirm.

Doris died in May 2022. Her son, Douglas Dittberner, was named as the personal representative of her estate and her will was admitted to probate without objection. Based on demands made by David and one of his sisters, Karla Gay, the circuit court ordered a formal administration of the estate. David and Karla submitted multiple documents to the court alleging that they were deprived of information they requested in discovery, that Douglas violated his duties as personal representative of the estate, and that their sisters acted with “false and illegal” powers of attorney before Doris’s death. After several hearings, the court entered a judgment dividing Doris’s estate, including the proceeds from the claim against the care facility, equally between her children. Although the court held several hearings leading up to the judgment, the transcripts from those hearings are not in the appellate record.

On appeal, David asserts that this case “was/is a Severe Elder Abuse Case.” He lists numerous purported “failures” of the circuit court, alleging that the court did not handle the case professionally or appropriately and did not address the issues he raised. He also contends that his siblings illegally acted with “self-appointed” powers of attorney toward the end of Doris’s life, were either directly or indirectly responsible for Doris’s injuries and suffering, and mismanaged Doris’s financial estate in bad faith.

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<sup>1</sup> We refer to the parties by their first names because several of the parties share the Dittberner surname.

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

David’s assertions are numerous and serious. However, the question before this court is whether the circuit court erred in addressing any claim brought on behalf of or against the estate or its representative—for example, a claim against a sibling for improper disposal of assets or a claim against a caregiver for personal injury to Doris. David has not established that any such claims were presented to the circuit court in a cognizable way or that the court failed to adjudicate a claim contrary to the facts and the law.

For example, David argues that the powers of attorney granted to his siblings “were not legal” and that his siblings “made personal profiting choices that were detrimental and in opposition to [Doris’s] choices.” He lists dozens of statutory provisions and record documents in his brief, but he does not point to anything showing that he presented this argument and supporting evidence to the circuit court or anything showing that the court erred in its consideration of the argument, if indeed he made it. Moreover, the court’s May 2023 scheduling order reflects that the estate would be producing documents responsive to David’s discovery requests—which included requests for “[a]ll health care and financial powers of attorney in force” and various financial documents—and that a hearing “on any remaining issues of discovery requests and on the approval of the final account” would be conducted on August 17, 2023. As the respondents point out, David did not appear at that hearing, nor is a transcript of that hearing in the record.<sup>3</sup> When a transcript is not part of the record, we assume that it supports

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<sup>3</sup> When filing his reply brief in March 2025, David sought permission to supplement the record with transcripts of this and another hearing, neither of which had been prepared at that point. We denied the motion as untimely, explaining that the case had already been fully briefed and that David’s June 2024 statement on transcript indicated that a transcript was not necessary.

(continued)

every fact essential to sustain the circuit court’s decision. *Austin v. Ford Motor Co.*, 86 Wis. 2d 628, 641, 273 N.W.2d 233 (1979).

All of David’s other arguments suffer from the same failure to show how the issues were raised, presented, and erroneously decided in the circuit court with citations to the record and applicable legal authority. We affirm the judgment of the circuit court on that basis. *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (court of appeals need not consider inadequately developed arguments).

Separately, we address respondent Douglas’s motion for costs based on his assertion that this appeal is frivolous. Sanctions for a frivolous appeal will be imposed only if we conclude that the appellant “knew, or should have known, that the appeal ... [had no] reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.” *Howell v. Denomie*, 2005 WI 81, ¶9, 282 Wis. 2d 130, 698 N.W.2d 621 (citation omitted). In deciding whether an appeal is frivolous, we “resolve all doubt in favor of finding the claim[s] nonfrivolous.” *Dietscher v. Pension Bd. of Emps.’ Ret. Sys. of Milwaukee*, 2019 WI App 37, ¶56, 388 Wis. 2d 225, 932 N.W.2d 446. Here, although we have affirmed the circuit court, we cannot say that David’s arguments are so lacking in merit that David knew or should have known that the appeal had no basis in law or equity.

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

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David also argues in his reply brief that he was present at the August 17, 2023 hearing in the sense that he was represented by two non-attorney individuals. He asserts that the circuit court prohibited these individuals from speaking on his behalf even though it had allowed them to do so in the past. David does not cite any legal authority to support an argument that this decision by the court was made in error.

IT IS FURTHER ORDERED that the motion for costs and attorney fees based on a frivolous appeal is denied.

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*