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**DISTRICT II**

February 19, 2020

To:

Hon. Sandy A. Williams  
Circuit Court Judge  
Ozaukee County Courthouse  
1201 S. Spring St.  
Port Washington, WI 53074-0994

Marylou Mueller  
Clerk of Circuit Court  
Ozaukee County Circuit Court  
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Port Washington, WI 53074-0994

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

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2018AP1898

Petitioner v. Nicholas DeStefanis (L.C. #2018CV261)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

**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).**

Nicholas DeStefanis appeals from a stipulated order enjoining him from harassing his ex-girlfriend. DeStefanis argues that the circuit court judge that entered the stipulated injunction was biased. 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 (2017-18).<sup>1</sup> We affirm.

In July 2018, DeStefanis' ex-girlfriend petitioned for a domestic abuse injunction against DeStefanis. After DeStefanis timely requested and was permitted judicial substitution under WIS. STAT. § 801.58, the Honorable Sandy A. Williams was assigned to the case.<sup>2</sup> DeStefanis filed a motion asking Judge Williams to recuse herself under WIS. STAT. § 757.19(2)(g) (a judge shall disqualify himself or herself from a proceeding when that judge “determines that, for any reason, he or she cannot, or it appears he or she cannot, act in an impartial matter”). As grounds, the motion alleged that Judge Williams evinced partiality toward the petitioner and bias against DeStefanis at a 2016 hearing wherein the petitioner successfully sought to vacate a prior injunction against DeStefanis.

Both parties were represented at the hearing on DeStefanis' ex-girlfriend's 2018 petition. Petitioner's counsel informed Judge Williams that the parties had reached an agreement wherein they would stipulate to the entry of a harassment injunction rather than a domestic abuse injunction. *See* WIS. STAT. § 813.12(5g). The petitioner expressed reservation, stating that “Mr. DeStefanis was the one that wanted this agreement” but ultimately confirmed that she wanted “to convert the domestic abuse petition to a harassment petition” due to a pending custody and placement action in Milwaukee County. The court ascertained DeStefanis'

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

<sup>2</sup> Judge Williams was the third judge assigned to the case. The judge assigned after DeStefanis' substitution request recused himself due to the judge's familiarity with DeStefanis and his father.

understanding of the agreed-upon stipulation, including the specific terms of the harassment injunction.

After approving the stipulated injunction, Judge Williams brought up DeStefanis' earlier-filed recusal motion. Judge Williams acknowledged that the request was "moot anyway, as the parties have entered into a stipulation[.]" but said she would address it so it would not remain "in limbo." After considering the recusal motion, Judge Williams denied it as "baseless."

On appeal, DeStefanis does not challenge any provision in the stipulated harassment injunction. Instead, he revives his claim that Judge Williams should have recused herself. DeStefanis fails to provide this court with any basis for reversing the stipulated injunction.

DeStefanis affirmatively asked the circuit court to accept a stipulation that benefitted him by converting the requested domestic abuse injunction to a harassment injunction under the procedures in WIS. STAT. § 813.12(5g). This conversion required the court's approval, which is why it followed up on the petitioner's apparent reticence with additional questions. Prior to presenting the stipulation to the court for its acceptance, DeStefanis did not bring up or renew the recusal motion. During the injunction hearing, neither DeStefanis nor his attorney objected to proceeding in front of Judge Williams. In fact, it was the court, not DeStefanis, that brought up the recusal motion at the end of the hearing so it would not remain "in limbo." DeStefanis

received the very result he requested.<sup>3</sup> He is precluded from now challenging on appeal a stipulation he affirmatively approved. Therefore,

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

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*

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<sup>3</sup> Along these lines, DeStefanis does not even attempt to assert that he was adversely affected by Judge Williams' alleged bias. *See* WIS. STAT. § 805.18(2) (providing that no judgment will be reversed or set aside unless "it shall appear that the error complained of has affected the substantial rights of the party seeking to reverse or set aside the judgement"). We are not persuaded by DeStefanis' contention that harmless error cannot apply to his judicial bias claim in these circumstances, where (1) he failed to bring this issue to the circuit court's attention, (2) he requested that it enter the stipulation without objection, and (3) he fails to challenge any part of the appealed-from order.