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**DISTRICT II**

May 14, 2025

To:

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Circuit Court Judge  
Electronic Notice

Joseph F. Owens  
Electronic Notice

Amy Vanderhoef  
Clerk of Circuit Court  
Racine County Courthouse  
Electronic Notice

Joseph M. Wirth  
Electronic Notice

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

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2024AP664

Steven Jenkins v. Village of Yorkville (L.C. #2021CV1034)

Before Gundrum, P.J., Grogan, and Lazar, 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).**

Steven Jenkins appeals a circuit court order denying him relief under WIS. STAT. § 806.07 (2023-24).<sup>1</sup> He asserts the court erroneously exercised its discretion when it denied his motion. 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. We affirm.

In 2021, the Village of Yorkville issued a raze order for Jenkins' barn. Jenkins brought suit against the Village to challenge the raze order. Eventually, the Village moved for summary

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

judgment. On April 17, 2023, the circuit court entered a written order whereby it granted the Village's motion, dismissed Jenkins' case with prejudice, and declared the raze order enforceable. The Village timely provided Jenkins with notice of entry of the court's final order, which made June 1, 2023 the deadline to appeal. *See* WIS. STAT. § 808.04. Jenkins did not appeal.

On November 20, 2023, Jenkins moved for relief from the circuit court's order pursuant to WIS. STAT. § 806.07(1)(a), (c), (g), and (h). That section provides, in relevant part:

(1) On motion and upon such terms as are just, the court ... may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:

(a) Mistake, inadvertence, surprise, or excusable neglect;

....

(c) Fraud, misrepresentation, or other misconduct of an adverse party;

....

(g) It is no longer equitable that the judgment should have prospective application; or

(h) Any other reasons justifying relief from the operation of the judgment.

In support of his motion, Jenkins argued that his former counsel had not timely filed a notice of appeal from the circuit court order. Jenkins also wanted to "reopen the case" so that the parties could engage in additional discovery, he could make further arguments regarding the raze order, and the court could make "a more informed decision based on a complete and thorough examination of all relevant facts and evidence."

Following briefing and a hearing, the circuit court denied Jenkins' motion. The court found that there were "no new issues ... raised [in the motion] that could not have been raised in the previous lawsuit." It stated Jenkins' motion appeared to be a request for "a second chance at defeating summary judgment." The court then reviewed each of the statutory provisions on which Jenkins based his motion.

The circuit court first found Jenkins had presented no evidence of mistake, inadvertence, surprise, or excusable neglect pursuant to WIS. STAT. § 806.07(1)(a). It noted that Jenkins' former attorney had not offered any affidavit on excusable neglect, and, based on the allegations in Jenkins' current motion, Jenkins "apparently knew an appeal was necessary."

Next, the circuit court found that Jenkins had presented no evidence of fraud, misconduct, or misrepresentation that would entitle him to relief under WIS. STAT. § 806.07(1)(c). The court noted that Jenkins alleged the Village's building inspector had somehow interfered with Jenkins' home equity loan before Jenkins brought his lawsuit in 2021. However, the court stated Jenkins had provided no evidence of this, Jenkins had advised the court he ultimately obtained a loan to pay for attorney fees, and Jenkins could have made these allegations against the building inspector as part of his initial lawsuit.

As for Jenkins' allegation that the judgment was no longer equitable under WIS. STAT. § 806.07(1)(g), the circuit court found there was nothing inequitable about the court's grant of summary judgment. The court then determined "it would be inequitable now to reverse the summary judgment decision based upon equities after [the Village] has relied on the issuance of the raze order."

Finally, in terms of the catchall provision in WIS. STAT. § 806.07(1)(h), the circuit court determined Jenkins had failed to offer an extraordinary reason that would entitle him to relief from the court's order. The court observed the parties had "two years to work this case up" before the Village moved for summary judgment. Jenkins had been represented by an attorney during this time, and there was no evidence presented "that had certain things happened, the result would be different." The court denied the motion. Jenkins appeals.

Whether to grant relief under WIS. STAT. § 806.07 is a decision within the discretion of the circuit court. *Miller v. Hanover Ins. Co.*, 2010 WI 75, ¶29, 326 Wis. 2d 640, 785 N.W.2d 493. We review the court's decision for an erroneous exercise of discretion. *Id.* A circuit court erroneously exercises its discretion if its decision is based on factual or legal errors. *See id.*

On appeal, Jenkins argues the circuit court erred by failing to grant his WIS. STAT. § 806.07 motion because it failed to review whether the court appropriately granted summary judgment in the Village's favor. He argues the court should have considered whether the April 17, 2023 grant of summary judgment and dismissal of his lawsuit "was erroneous as a matter of law because of the existence of material issues of fact." He then offers various reasons that the court erred by granting summary judgment in the Village's favor. Jenkins asserts that, in the context of his § 806.07 motion, the court erroneously exercised its discretion when denying the motion because the court did not examine "all of the relevant facts, issues, or analysis of [the court's] application of the proper summary judgment standard."

As a threshold matter, we note that because Jenkins failed to timely appeal the circuit court's order granting summary judgment in favor of the Village, the scope of our review is

limited to determining whether the court properly denied Jenkins' motion for relief under WIS. STAT. § 806.07. We do not review the court's grant of summary judgment.

Here, we conclude the record reflects the circuit court appropriately exercised its discretion by denying Jenkins' WIS. STAT. § 806.07 motion. The court reviewed each of Jenkins' claims for relief under § 806.07 and determined, based on the facts outlined above and the law, that they did not warrant relief under § 806.07. We therefore affirm.<sup>2</sup>

IT IS ORDERED that the order 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.

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

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<sup>2</sup> Separately, the Village moved for sanctions against Jenkins on the basis that his appeal is frivolous. *See* WIS. STAT. RULE 809.25(3). We are not convinced that Jenkins' appeal was pursued in bad faith or without any basis in law. *See* RULE 809.25(3). The motion is denied.