State of Wisconsin Supreme Court

FILED
MAR 30 2017
CLERK OF SUPREME COURT
OF WISCONSIN

Warren Slocum
2220 122nd St.
New Richmond, WI 54017
715-248-3150

Petitioner, Petitioner, Plaintiff

Appendix of Petition to Review

Vs.

Town of Star Prairie
2118 Cook Dr.,
Somerset, WI 54025 715-246-9878

2016 AP 280

Respondent, Respondent, Defendant

State of Wisconsin Supreme Court

Warren Slocum

Petitioner, Petitioner, Plaintiff

Appendix of Petition to Review

Vs.

Town of Star Prairie
2118 Cook Dr., Somerset, WI 54025
715-246-9878

Respondent, Respondent, Defendant 2016 AP 280

Table of contents:

1) The Decision of the Court of Appeals

2) Decision of the circuit court

3) Other portions of the record necessary for an understanding of the petition (there are none)

4) Unpublished opinions cited under s. 809.23 (3) (a) or (b) (there are none)

OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS
110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

February 28, 2017

To:

Hon. Edward F. Vlack III
Circuit Court Judge
St. Croix County Courthouse
1101 Carmichael Road
Hudson, WI 54016

Kristi Severson
Clerk of Circuit Court
St. Croix County Courthouse
1101 Carmichael Road
Hudson, WI 54016

William G. Thiel
Weld Riley, S.C.
P.O. Box 1030
[redacted]

Warren Slocum
2220 122nd Street
New Richmond, WI 54017

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

2016AP280 Warren Slocum v. Star Prairie Township Board and Board of Review (L. C. No. 2014CV375)

Before Stark, P.J., Hruz and Seidl, JJ.

Warren Slocum appeals a summary judgment in favor of Star Prairie Township Board and its Board of Review, together with an award of frivolous costs. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition and we summarily affirm. *See* WIS. STAT. RULE 809.21 (2015-16).[1] We also find the appeal frivolous and remand for further proceedings. *See* WIS. STAT. RULE 809.25(3)(c). We also bar Slocum from future Wisconsin Court of Appeals filings unless and until all sanctions

[1] All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

imposed against Slocum by the Court of Appeals awarding costs, fees, and reasonable attorney fees have been paid in full.

Despite prior admonishments from this court against further frivolous filings or rules violations, Slocum has chosen to continue his crusade of endless litigation and abuse of process regarding his tax assessments. We have previously emphasized the vast number of lawsuits Slocum filed over the years. *See, e.g.*, ***Slocum v. Star Prairie Township***, No. 2015AP1287, unpublished slip op., ¶3 & n.1 (WI App Mar. 8, 2016). We have also noted that all of Slocum's cases center around the same basic issue—namely, that his property taxes are too high. ***Id.***, slip op., ¶5. We have upheld circuit court findings that Slocum clearly engaged in the improper use of civil process to harass the Town of Star Prairie. In case No. 2015AP1287, we stated:

> We are very troubled by the vast amount of public resources expended on Slocum's matters that have occupied the court system for years. Slocum's frivolous and extensive filings are now distressingly common. This court, as well as the circuit court, has a very high caseload, and yet great patience has been shown to Slocum in the face of his barrage of filings. We have been lenient in the face of Slocum's pro se filings that fail to conform to the rules of appellate procedure. However, Slocum's abuse of the judicial system has the cumulative effect of clogging the processes of the courts and placing unwarranted burdens on judges and staff, to the detriment of other litigants having meritorious and deserving claims. We will not allow Slocum's endless filings to continue. Slocum's abuse of the judicial process must end.

Id., slip op., ¶13.

In case No. 2015AP1287, we admonished Slocum that "further frivolous filings or rules violations may result in sanctions, including limiting further filings." ***Id.***, slip op., ¶1. One month after our decision in that case, however, Slocum filed the principal appellate brief in the present case. As in the past, Slocum once again fails to conform to the requirements of the rules of appellate practice and engages in a frivolous filing. Slocum refers to numerous purported

facts and documents not in the record on appeal. It is not the function of this court to take additional evidence, and the record may consist only of those documents that were before the fact finder. *See State ex rel. Wolf v. Town of Lisbon*, 75 Wis. 2d 152, 155-56, 248 N.W.2d 450 (1977). Slocum also cites generally to multi-page documents such as "R36" without reference to pages of the record for each statement and proposition made in his briefs. *See* WIS. STAT. RULES 809.19(1)(c), (d), and (e). Much of Slocum's briefing is also devoid of legitimate legal analysis and appropriate standards of review. It also includes arguments and contentions presented in an incoherent and highly disjointed manner. [redacted] unsupported by citation to pertinent legal authority. The circuit court noted that although Slocum set forth many grievances with the Town and its Board of Review, he cited many statutes irrelevant to the current proceedings. This court will not abandon its neutrality to craft viable legal arguments for litigants. *See M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988).

The circuit court in the present case specifically found Slocum's complaint devoid of factual correlation to his claims. Slocum "simply lists off the statutes in which he believes the Town or BOR has violated, without any indication to facts or circumstances that support his conclusion." *See* WIS. STAT. § 802.02(1)(a). The court reiterated that the notice pleading rules, although intended to eliminate technical requirements of pleading, nevertheless requires a plaintiff to set forth a statement of circumstances, occurrences, and events in support of the claim presented. *See Doe v. Archdiocese of Milwaukee*, 2005 WI 123, ¶36, 284 Wis. 2d 307, 700 N.W.2d 180. The court properly found Slocum's complaint "deficient as a matter of law." As the court emphasized, we are left to speculate even as to which year's tax assessment Slocum

challenges in the present appeal. The relief requested in Slocum's brief to this court is merely "to have a valid Board of Review to act on the assessment review properly."

Moreover, the circuit court stated:

> It must further be acknowledged that Mr. Slocum has provided the Court with Affidavits that were signed before the Motion for Summary Judgment was even filed. This signifies that, rather than specifically responding to the Motion for Summary Judgment, Mr. Slocum merely presented this Court with Affidavits from previous Court proceedings of which have little, if any, bearing on the issues in the present proceeding.

The circuit court properly found Slocum "has advanced arguments which are not warranted by existing law or by a non-frivolous argument due to their lack of relevance in the proceeding." With regard to the appeal in the present case, we also find Slocum knew, or should have known, the appeal was without any 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. *See* WIS. STAT. RULE 809.25(3)(c)2. A frivolous appeal filed by a non-lawyer results in the same harm as if it were filed by a lawyer. Moreover, we previously found Slocum is not "an unlearned and unlettered pro se litigant." *Slocum*, No. 2015AP1287, slip op., ¶3. Slocum has been previously admonished that he is not entitled to pursue an endless succession of frivolous and extensive filings. Slocum's repeated egregious conduct and bad faith warrant dismissal of the present appeal. *See* WIS. STAT. RULE 809.83(2). The matter is remanded for the circuit court to determine the amount of costs, fees, and attorney fees to be awarded. *See Lucarelli v. Vilas Cty.*, 2000 WI App 157, ¶¶7-9, 238 Wis. 2d 84, 616 N.W.2d 153.

We conclude further sanctions are also warranted, as repeated cautions and admonitions have proven ineffective to cease Slocum's vexatious and abusive conduct. *See Minniecheske v.*

No.

Griesbach, 161 Wis. 2d 743, 748, 468 N.W.2d 760 (Ct. App. 1991). Accordingly, the clerk of this court is instructed to return unfiled any document Slocum submits relating to any matter arising from, relating to, or involving Star Prairie Township's property tax assessments of Slocum's real property, until such time as Slocum provides the clerk of this court proof that all sanctions issued by this court against Slocum awarding costs, fees, and reasonable attorney fees have been paid in full.[2]

Upon the foregoing,

IT IS ORDERED that the motion for frivolous costs is granted.

IT IS FURTHER ORDERED that the judgment is summarily affirmed and cause remanded for further proceedings.

IT IS FURTHER ORDERED that the clerk of this court shall return unfiled any document Slocum submits relating to any matter arising from, relating to, or involving Star Prairie Township's property tax assessments of Slocum's real property, until such time as Slocum provides the clerk of this court with proof that all sanctions issued by this court against Slocum awarding costs, fees and reasonable attorney fees have been paid in full.

Diane M. Fremgen
Clerk of Court of Appeals

---

[2] In recognition that a filing restriction must be narrowly tailored to the type of abuse, Slocum is not barred from filing documents in this court responding to any action commenced by Star Prairie Township, or any criminal proceeding commenced against him, or seeking habeas corpus relief for himself, or challenging incarceration, or petitioning the Wisconsin Supreme Court for review of this opinion.

STATE OF WISCONSIN CIRCUIT COURT ST. CROIX COUNTY

WARREN SLOCUM,

Plaintiff,

DECISION AND ORDER

v.

STAR PRAIRIE TOWNSHIP, and BOARD OF REVIEW,

Case No. 14CV375

Defendants.

PROCEDURAL HISTORY

On August 1, 2014, Warren Slocum filed this action against Star Prairie Township ('Town') and its Board of Review ('BOR'), citing numerous statutes of which he asserts the Star Prairie Township and its Board of Review have violated. These statutes include 70.46(4), 70.32(1), 70.47(3)(a)3, 70.47(3)(ah), 70.47(6), 70.47(8)(d), 70.47(8)(h), 70.47(10), 70.47(12), 70.47(17), 70.501, 70.502, 70.503, and 70.52. After citing these statutes, the Summons and Complaint goes on to state:

> This is not an action under s. 70.47(13), s. 70.85, or s. 74.37. Each of those three (3) actions (and others) involves objections to the monetary values of the property taxes/assessments themselves, while this action instead regards only the manner in which those assessments were produced, defended, and reviewed

The relief requested by Mr. Slocum on the last pages is as follows:

> The relief sought by this action is a properly constituted board of review that acts in compliance with state laws, as well as applicable fines, and additional damages/liabilities. A dollar value of the claim to the municipality, and in this action, is $1400.

Mr. Slocum cited a number of statutes in his Summons and Complaint that he argues the Town and BOR failed to abide with. The Defendants summarize Mr. Slocum's claims as follows:

1. The failure of the membership of the BOR to comply with the requirement under §70.46(4), Wis. Stats., which requires that each BOR shall have at least one (1) member who within two (2) years of a given meeting shall have been certified as having attended a training session under §73.03(55), Wis. Stats.
2. The failure of the Town Assessor to have properly valued his property in accord with §70.32(1), Wis. Stats., and the State Property Assessment Manual ("WPAM").
3. The failure of the BOR to have properly held a hearing in accord with §70.47(3)(a)3., Wis. Stats.
4. The failure of the BOR to reschedule hearings in accord with §70.47(3)(ah), Wis. Stats.
5. The failure of the BOR to have exercised its "duty" to correct descriptions [of real property] in accord with §70.47(6), Wis. Stats.
6. The failure of the BOR to comply with ¶70.47(8)(d) and 8(h), Wis. Stats., regarding production of evidence at request of a taxpayer and to compel the attendance of witnesses at hearings.
7. The failure of the BOR to correct assessments in accord with §70.47(10), Wis. Stats.
8. The failure of the BOR to provide notice of its decisions before adjourning, §70.47(12), Wis. Stats.
9. The failure of the BOR to provide a summary of its proceedings, §70.47(17), Wis. Stats.
10. Liabilities "resulting from improper assessment practices/actions" under §§70.501, 70.502, 70.503, Wis. Stats.
11. The failure of the "local municipal clerk" to correct parcel descriptions, using the assistance of the county surveyor, contrary to §70.52, Wis. Stats.

On September 15, 2014, the Defendants filed a Notice of Intent to file a Motion for Frivolous Costs. On April 2, 2015, the Defendants filed a Motion for Summary Judgment and a Motion for Frivolous Costs – each of these Motions were dated March 27, 2015.

Mr. Slocum filed five Affidavits with the St. Croix County Clerk of Court. One on May 1, 2015, three on May 4, 2015, and one on May 5, 2015. All of Mr. Slocum's Affidavits were dated March 26, 2015.

A motion hearing on August 25, 2015.

LEGAL AUTHORITY

1. SUMMARY JUDGMENT

A party is entitled to summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no

genuine issue as to material fact and that the moving party is entitled to a judgment as a matter of law." Wis. Stat. § 802.08(2). A factual issue is "genuine" if the evidence is such that a reasonable jury could return a verdict in favor of the nonmoving party. *Schmidt v. Northern States Power Co.*, 2007 WI 136, ¶ 24, 305 Wis.2d 538, 556, 742 N.W.2d 294 (citations omitted). A "material fact" is one that is "of consequence to the merits of the litigation." *Id.* Summary judgment materials are viewed in the light most favorable to the nonmoving party. *Smarzwell v. Bayard*, 274 Wis.2d 278, 289, 682 N.W.2d 923 (Wis. 2004) (citing *Torgerson v. Journal/Sentinel, Inc.*, 210 Wis.2d 524, 537, 563 N.W.2d 472 (Wis. 1997)). Summary judgment should therefore not be granted "unless the facts presented conclusively show that the plaintiff's action has no merit and cannot be maintained." Id. A prima facie case for summary judgment is established when the evidentiary facts stated in favor of the motion stand uncontroverted by the opposing party's affidavits. *Walter Kassuba, Inc. v. Bauch*, 38 Wis2d 648 (1968).

II. WIS. STAT. § 893.80(4)—Claims Against Governmental Bodies or Officer, Agents or Employees; Notice of Injury; Limitations of Damages and Suits:

> (4) No suit may be brought against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employees nor may any suit be brought against such corporation, subdivision or agency or volunteer fire company or against its officers, officials, agents or employees for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.

Wisconsin Supreme Court case *State ex rel Boostrom v. Bd. of Review* elaborates on this point by stating "[t]he duties of boards of review are quasi-judicial and courts have no jurisdiction to disturb their findings or determinations except where they act in bad faith or exceed their jurisdiction . . . If the board of review does not act arbitrarily or dishonestly and the evidence presented before it is sufficient to furnish any substantial basis for the valuation found

by the board, its decision will not be disturbed." *State ex rel Bunstrom v. Bd. of Review*, 42 Wis.2d 149, 155 (1968). Further, "[a] Board of Review is not an assessing body but rather a quasi-judicial body whose duty it is to hear evidence tending to show errors in the assessment roll and to decide upon the evidence adduced whether the assessor's valuation is correct." *State ex rel Int'l Bus. Machines Corp. v. Bd. of Review of City of Fond Du Lac*, 231 Wis. 303, 285 N.W. 784, 785 (1939).

III. WIS. STAT. § 70.32(1)—Real Estate, How Valued:

(1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03(2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's-length sales of reasonably comparable property; recent arm's-length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

IV. WIS. STAT. § 70.47—Board of Review Proceedings:

§ 70.47(3)(a)3:
(3) Sessions. (a) At its first meeting, the board of review:

. . .

3. Shall schedule for hearing each written objection that it receives during the first 2 hours of the meeting or that it received prior to the first meeting.

§ 70.47(3)(ah):
(ah) For each properly filed written objection that the board receives and schedules during its first meeting, but does not hear at the first meeting, the board shall notify each objector and the assessor, at least 48 hours before an objection is to be heard, of the time of that hearing. If, during any meeting, the board determines that it cannot hear some of the written objections at the time scheduled for them, it shall create a new schedule, and it shall notify each objector who has been rescheduled, at least 48 hours before the objection is to be heard, of the new time of the hearing.

§ 70.47(6):
(6) Board's duty. The board shall carefully examine the roll or rolls and correct all apparent errors in description or computation, and shall add all omitted property as provided in sub. (10). The board shall not raise or lower the assessment of any property except after hearing as provided in subs. (8) and (10).

§ 70.47(8)(d):
(d) It may and upon request of either the assessor or the objector shall compel the attendance of witnesses for hearing, except objectors who may testify by telephone, and the production of all books, inventories, appraisals, documents and other data which may throw light upon the value of property, and, with regard to an objection that is subject to sub. (7)(c) or (16)(c), may, on a showing of good cause, compel the attendance of witnesses for depositions.

§ 70.47(8)(h):
(h) The assessor shall provide to the board specific information about the validity of the valuation to which objection is made and shall provide to the board the information that the assessor used to determine that valuation.

§ 70.47(10):

(10) Assessment by board. If the board has reason to believe, upon examination of the roll and other pertinent information, that other property, the assessment of which is not complained of, is assessed above or below the general average of the assessment of the taxation district, or is omitted, the board shall:

(a) Notify the owner, agent or possessor of such property of its intention to review such assessment or place it on the assessment roll and of the time and place fixed for such hearing in time to be heard before the board in relation thereto, provided the residence of such owner, agent or possessor be known to any member of the board or the assessor.

(b) Fix the day, hour and place at which such matter will be heard.

(c) Subpoena such witnesses, except objectors who may testify by telephone, as it deems necessary to testify concerning the value of such property and, except in the case of an assessment made by a county assessor pursuant to s. 70.99, the expense incurred shall be a charge against the district.

(d) At the time appointed proceed to review the matter as provided in sub. (8).

§ 70.47(12):
(12) Notice of decision. Prior to final adjournment, the board of review shall provide the objector, or the appropriate party under sub. (10), notice by personal delivery or by mail, return receipt required, of the amount of the assessment as finalized by the board and an explanation of appeal rights and procedures under sub. (13) and ss. 70.85, 74.35 and 74.37. Upon delivering or mailing the notice under this subsection, the clerk of the board of review shall prepare an affidavit specifying the date when that notice was delivered or mailed.

§17.47(17):
(17) Summary of proceedings. After the board of review has completed its determinations, the clerk shall prepare a summary of the proceedings and determinations, on forms prescribed by the department of revenue, which shall include the following information:

(a) Name of taxpayer;
(b) Description or designation of the property subject to the objection;
(c) Amount of the assessment about which taxpayer objected;
(d) Names of any persons who appeared on behalf of taxpayer; and
(e) Board's determination on taxpayer's objection.

V. WIS. STAT. § 70.46(4)—Boards of Review; Members; Organization:

(4) No board of review may be constituted unless it includes at least one voting member who, within 2 years of the board's first meeting, has attended a training session under s. 73.03(55) and unless that member is the municipality's chief executive officer or that officer's designee. The municipal clerk shall provide an affidavit to the department of revenue stating whether the requirement under this subsection has been fulfilled.

VI. WIS. STATS. §§ 70.501 (Fraudulent Valuations by Assessor); 70.502 (Fraud by Member of Board of Review); 70.503 (Civil Liability of Assessor or Member of Board of Review)

§ 70.501. Fraudulent valuations by assessor
Any assessor, or person appointed or designated under s. 70.055 or 70.75, who intentionally fixes the value of any property assessed by that person at less or more than the true value thereof prescribed by law for the valuation of the same, or intentionally omits from assessment any property liable to taxation in the assessment district, or otherwise intentionally violates or fails to perform any duty imposed upon that person by law relating to the assessment of property for taxation, shall forfeit to the state not less than $50 nor more than $250.

§ 70.502. Fraud by member of board of review
Any member of the board of review of any assessment district who shall intentionally fix the value of any property assessed in such district, or shall intentionally agree with any other member of such board to fix the value of any of such property at less or more than the true value thereof prescribed by law for the valuation of the same, or shall intentionally omit or agree to omit from assessment, any property liable to taxation in such assessment district, or shall otherwise intentionally violate or fail to perform any duty imposed upon the member by law relating to the assessment of property for taxation, shall forfeit to the state not less than $50 nor more than $250.

§ 70.503. Civil liability of assessor or member of board of review
If any assessor, or person appointed or designated under s. 70.055 or 70.75, or any member of the board of review of any assessment district is guilty of any violation or

omission of duty as specified in ss. 70.501 and 70.502, such persons shall be liable in damages to any person who may sustain loss or injury thereby, to the amount of such loss or injury; and any person sustaining such loss or injury shall be entitled to all the remedies given by law in actions for damages for tortious or wrongful acts. This section does not apply to the department of revenue or its employees when appointed or designated under s. 70.055 or 70.75.

VII. WIS. STAT. § 802.02. General rules of pleading:

(1) Contents of pleadings. A pleading or supplemental pleading that sets forth a claim for relief, whether an original or amended claim, counterclaim, cross claim or 3rd-party claim, shall contain all of the following:

a. A short and plain statement of the claim, identifying the transaction or occurrence or series of transactions or occurrences out of which the claim arises and showing that the pleader is entitled to relief.

VIII. WIS. STAT. § 802.05(2)

(2) Representations to Court. By presenting to the court, whether by signing, filing, submitting, or later advocating a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following:

(a) The paper is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
(b) The claims, defenses, and other legal contentions stated in the paper are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.
(c) The allegations and other factual contentions stated in the paper have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

ANALYSIS

I. Did Mr. Slocum provide a sufficient basis to disturb the findings of the Board of Review?

As held in Wisconsin Supreme Court case *Boostrom v. Board of Review*, due to the Board of Review's quasi-judicial status, courts have no jurisdiction to disturb a Board's determination unless the Board acts in bad faith or has exceeded their jurisdiction. *Boostrom*, 42 Wis.2d at 155. A quasi-judicial status refers to "those acts that involve the exercise of discretion

in coming to a judgment, the availability of a public hearing on the judgment before a specialized board, and the imposition by the board of an appropriate final decision." *Showers Appraisals LLC v. Musson Brothers, Inc.*, 350 Wis.2d 509, 525-26 (2013).

Further, under Wis. Stat. § 893.80(4), suit may not be brought against a governmental body or its officers or employees for acts through which their exercise of quasi-judicial functions are to be performed. WIS. STATS. §893.80(4). This section institutes immunity for governmental bodies, such as Boards of Review, for acts undertaken in their quasi judicial or legislative abilities.

Based upon this Court's reading of Mr. Slocum's Complaint, this Court concludes that it fails to allege bad faith by the Board or any circumstance where the Board exceeded their jurisdiction as necessitated. Mr. Slocum simply alleges the Board violated certain statues through the "extreme and expansive nature of the local municipality's disregard for even the most basic requirements of assessment and review procedure/propriety." (Pl.'s Summons & Compl., 1: ¶ 5.) Although Mr. Slocum asserts that the Board did not properly carry out its quasi judicial duties he has failed to state examples of such disregard. Rather, he solely states in multiple instances that "the board did not comply with this law" without any indication as to how or why it was not complied with.

The Board of Review is a quasi-judicial body as determined through Wis. Stats. §§ 70.47 and 893.80(4). Mr. Slocum has failed to state whether the Board has acted in bad faith or how it has exceeded its jurisdiction. Therefore, this claim in Mr. Slocum's Complaint is dismissed.

II. Was the Membership of the Board of Review in 2013 Properly Appointed Pursuant to § 70.46(4)?

Much of Mr. Slocum's Complaint revolves around the assertion that, contrary to Wis. Stat. §70.46(4), "no voting members of the local board of review have taken the state revenue

agency's training course in the last two (2) years." (Pl's Summons and Complaint, 1: ¶ 7). In particular, Wis. Stat. § 70.46(4) states:

> No board of review may be constituted unless it includes at least one voting member who, within 2 years of the board's first meeting, has attended a training session under s. 73.03(55) and unless that member is the municipality's chief executive officer or that officer's designee. The municipal clerk shall provide an affidavit to the department of revenue stating whether the requirement under this subsection has been fulfilled.

Mr. Slocum continues his argument by adding, "[w]ith no voting board of review members in Star Prairie having recently taken the training course, however, the board simply relied on its untrained, uninformed members' personal feelings and preferences, regarding the propriety of the local property tax assessments." *(Id.* at 2: ¶2)

The Town and BOR refute this assertion based upon the affidavit of Michael Burke. This affidavit pronounces that the Star Prairie Town Chairperson, Scott Counter, received such training within two years prior to the first BOR for 2013, which is all that appears to be required under Wis. Stat. § 70.46(4). According to the affidavit, Mr. Counter received this training on February 10, 2012. The Town also quotes from the procedures of the Wisconsin Property Assessment Manual (WPAM). Within the manual the same requirements detailed in Wis. Stat. § 70.46 are described, however an additional note states "[i]f the trained individual is recused or removed, the meeting may still be held." (WPAM (2008) at Title 18, BOR & Appeals, p. 18-2). This phrase allows the BOR to continue its meetings without the presence of the board member who received the training, so long as complete training has, in fact, taken place.

Additionally, the Town argues that "[i]t is a rule of statutory construction that no statute is to be read in such a manner as to produce an absurd and unreasonable result." *Gross v. Woodman's Food Market*, 259 Wis.2d 181, 218 (2002). This is exactly the result produced under Mr. Slocum's rationale. Mr. Counter was "removed from the BOR panel hearing [Mr.

Slocum's] case and since [Mr.]Counter is the only member of the 2013 BOA to have received the training required under §70.46(4), Wis. Stats., the BOR didn't have a voting member who had attended the training called for under this statute." (Def's Sum. J. Br., p.7). Under this construction, Mr. Slocum's objection to Mr. Counter, the one BOR member with training, would prevent the BOR from hearing his appeal. This would produce an absurd result, which is not what is intended under §76.46(4). Most persuasively put by the defense:

> "[I]f this statutory requirement were applied in the manner that is proposed by [Mr.] Slocum, an absurdity could result, namely, each and every person who files an appeal to the board could exercise the discretionary right to object to the one member of a board of review who has received the requisite training, for the board must honor such a request under §70.17(6m)(a), Wis. Stats., whether grounds exist for the objection being raised or not. As such, there would be no board of review to hear a tax assessment appeal because the sole trained member is disqualified as a matter of law and the remaining members of the board fail to possess the qualification of having received the training required by §70.46(4), Wis. Stats. (*Id.* at p. 11).

Because the BOR did in fact have a member, Mr. Counter, who was trained on February 10, 2012, in the necessary course needed to satisfy the obligation under §70.46(4), this Court concludes that the membership of the BOR was properly appointed. Therefore Mr. Slocum's assertion that this requirement was not fulfilled is dismissed.

III. Did the Town Assessor properly assess Mr. Slocum's property in adherence to Wis. Stat. § 70.32(1)?

Mr. Slocum has issue under § 70.32(1), which indicates that "[r]eal property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual..." WIS. STAT. § 70.32(1). Mr. Slocum contends that this was not done. He states specifically that, "the property's only structural improvement is a Geodesic Dome that is, according to the WPAM, to be valued as a single-story building. This was not done. Instead, it is valued at 1.5 stories." (Pl's Comp., 2: ¶ 7).

The Town argues, and the Court agrees, that in order to succeed in this action, Mr. Slocum would have had to name the Town Assessor as a party to this lawsuit, which he has not done. "The assessor is a town officer, charged with the duties imposed on assessors under Chs. 70 and 74, Wis. Stats. §§ 60.30 and 60.307, Wis. Stats. ... The assessment of property by the town assessor is not subject to oversight, control, or reversal by the Town Board." (Def's Mot for Sum. Judgment, p. 15). Neither the Town nor the BOR may be sued for the alleged acts or mistakes by its assessor. Since Mr. Slocum has failed to join the necessary party, the assessor, there is no jurisdiction over the assessor, and this claim must be dismissed.

IV. May Mr. Slocum assert money damages through Wis. Stats. §§ 70.501, 70.502, 70.503?

A further grievance of Mr. Slocum are claims under §§ 70.501, 70.502, 70.503. In his Complaint, Mr. Slocum includes claims under these statutes by stating that these three statutes "regard the consequences of, and liabilities resulting from improper assessment practices/actions." (Pl's Comp., 3: ¶ 6). There are no further explanations as to the details about the basis for his claims or why he believes that these causes of actions should continue further.

The Town of Star Prairie asserts that "[b]oth §70.501, Wis. Stats., and §70.502, Wis. Stats., are criminal statutes, enforced by the district attorney of the county in which violations thereof occur. Therefore, the only way that a taxpayer, such as Mr. Slocum, can rely upon these statutes as a basis for a claim of damages for loss or injury under §70.503... [I]t is not the Town Board or the BOR that is liable to the aggrieved taxpayer; it is the assessor or board of review member who had been found guilty of a violation of either §§70.501 or 70.502, Wis. Stats., who is liable to the taxpayer..." (Def's Mot. for Sum. Judgment, pp. 16-17). As previously established, Mr. Slocum has not made the Town Assessor a party to this lawsuit, nor has he made an individual member of the 2013 BOR a party to this lawsuit.

Additionally, as specified under §§ 70.501 and 70.502, before an aggrieved taxpayer, such as Mr. Slocum, may sue for monetary damages for losses caused by either the assessor or a member of the BOR, the assessor or BOR member must have been found *guilty* of a violation of either §§ 70.501 or 70.502. Furthermore, the State is the only party in which a lawsuit can be brought in order to collect a forfeiture against the assessor or BOR member. All that Mr. Slocum "has done within the context of his Complaint is to allege that he is entitled to $1400 in money damages, ostensibly due to a violation of §§70.501 or 70.502, Wis. Stats., by either or both the Town Assessor or members of its BOR." (Def's Summ. J. Br., p.18). Mr. Slocum has not properly brought issue under §§70.501, 70.502 or 70.503. Therefore, this claim must be dismissed.

V. Has Mr. Slocum properly brought assertions under Wis. Stats. §§ 70.47(3)(a) 3, 70.47(3)(ah), 70.47(6), 70.47 (8)(d) and (8)(h), 70.47(10), 70.47(12), 70.47(17) or 70.52?

A. Did the Board hold a proper hearing in the matter of Mr. Slocum's 2013 Tax Assessment Appeal?

Mr. Slocum claims the Board failed to hold a proper hearing in the matter of his 2013 tax assessment appeal citing Wis. Stat. § 70.43(3)(a)3 as support. As attested to in the affidavit of Town Clerk Burke, however, the Board did schedule a hearing for Mr. Slocum's written objection and a hearing was held in accordance with this statute. Therefore, this argument is disposed of.

B. Did the Board fail to reschedule a hearing in accord with Wis. Stat. § 70.43(3)(ah)?

As stated above, the affidavit of Town Clerk Burke attests that a hearing was held in the matter of Mr. Slocum's 2013 tax assessment appeal by the Board. This argument is also disposed of.

C. Did the Board fail to exercise its duty to correct descriptions of Mr. Slocum's real property in accord with Wis. Stat. § 70.47(6)?

The Town asserts that Mr. Slocum has failed to identify any factual allegations that support his position that the Board has failed to correct descriptions. The Town is left guessing as to what error was made or even what property to which his allegations apply. Further, Mr. Slocum did not raise this issue at the time of its hearing and nothing compels the Board to take action to correct the descriptions of property unless there are "apparent errors." (Def.'s Summ. J. Br., p.19.) "There was no apparent error in the description of [Mr.] Slocum's real property in the Town for 2013. No apparent error was ever presented to the BOR for its consideration. No error has been identified to the Court – it is being told by [Mr.] Slocum to accept his allegations on a faith basis only." (*Id.* at p. 20.) For these reasons, this argument is disposed of.

D. Did the Board fail to comply with Wis. Stat. §70.47(8)(d) and (8)(h) regarding production of evidence?

The Town addresses this assertion in their brief by referring to sections A., B., and C., above for the same reason cited. The Court will follow suit and dispose of Mr. Slocum's arguments as no facts were given to give validity to the claim.

E. Did the Board fail to correct assessments in accord with Wis. Stat. §70.47(10)?

Wis. Stat. §70.47(10) states:

> If the board has reason to believe, upon examination of the roll and other pertinent information, that other property, the assessment of which is not complained of, is assessed above or below the general average of the assessment of the taxation district, or is omitted, the board shall: . . . . WIS. STAT. §70.47(10).

This subsection refers to *other property* (emphasis added) and, therefore, has no bearing upon the current case as it has no relationship to the claims regarding Mr. Slocum's own real property. This claim is not relevant to Mr. Slocum's claim for money damages.

F. Did the Board fail to provide notice of its decisions before adjourning contrary to Wis. Stat. §70.47(12) or fail to provide a summary of it's proceedings, contrary to Wis. Stat. §70.47(17)?

The Town argues that is did comply, referencing Town Clerk Burke's Affidavit. This Court agrees and also disposes of these arguments in such a manner.

G. Did the Town Clerk fail to correct parcel description, using the assistance of the County Surveyor contrary to Wis. Stat. §70.52?

Wis. Stat. §50.52—Clerk to examine and correct rolls is stated as follows:

> Each city, village, and town clerk upon receipt of the assessment roll shall carefully examine the roll. The clerk shall correct all double assessments, imperfect descriptions and other errors apparent upon the face of the roll, and strike off all parcels of real property not liable to taxation. The clerk shall add to the roll any parcel of real property or item of personal property omitted by the assessors and immediately notify the assessors of the omissions. The assessors shall immediately view and value the omitted property and certify the valuation to the clerk. The clerk shall enter the valuation upon the roll, and the valuation shall be final. To enable the clerk to properly correct defective descriptions, the clerk may request aid, when necessary, from the county surveyor, whose fees for the services rendered shall be paid by the city, village, or town.

To begin, nothing in Mr. Slocum's Complaint implies there were any errors other than that of his claim of an imperfect parcel description. "The duty imposed on the Town Clerk under this section involves an exercise of judgment on the part of the Clerk – i.e., that upon review of the tax roll the clerk discovers errors that are apparent to him on the face of the roll. If nothing is apparent to the Clerk, nothing is to be done by the Clerk under this section." (Def.'s Summ. J. Br., p. 21-22.) The Town Clerk may ask for assistance of the county surveyor upon his discretion if, in reviewing the tax roll, he discovers an imperfect description. (*id*). If there is no revelation of an imperfection apparent, the Clerk is not under the obligation to correct it or seek the assistance of the county surveyor. Further, the Town Clerk was not named a party in this case, therefore this Court lacks jurisdiction over this assertion.

IX. Has Mr. Slocum failed to state a claim?

Mr. Slocum raises many issues within his Complaint, however, he has simply listed certain statutes without any factual correlation to his claims. Under § 802.02(1)(a), a complaint must contain "[a] short and plain statement of the claim, identifying the transaction or occurrence or series of transactions or occurrences out of which the claim arises and showing that the pleader is entitled to relief." These claims are to be liberally "construed [so] as to do substantial justice." Wis. Stat. § 802.02(6); *Doe v. Archdiocese of Milwaukee*, 284 Wis.2d 307, 329 (2005). A complaint cannot be completely lacking in factual contentions, however *(Id)*. "The notice pleading rule, while 'intended to eliminate many technical requirements of pleading,' nevertheless requires the plaintiff to set forth 'a statement of circumstances, occurrences and events in support of the claim presented.'" *(Id)*.

While Mr. Slocum has set forth many grievances with the Town and its BOR, the specifics entailed in each of these claims that he sets forth are not clear. As required by statute and the Wisconsin Supreme Court case *Doe v. Archdiocese of Milwaukee*, a complainant must, at the bare minimum, identify the occurrences of which the claims arise. Mr. Slocum has failed to do so. Mr. Slocum simply lists off the statutes in which he believes the Town or BOR has violated, without any indication to facts or circumstances that support his conclusion. Mr. Slocum "fails to explain how the Board of Review's officers and members are personally liable, nor in what manner the assessor for the Town is subject to its control and is, thus, liable for its alleged defalcations." (Def's Sum. J. Br., p. 12). Because Mr. Slocum has simply pleaded conclusions, has not elaborated upon the facts or circumstances of his complaint and his Complaint is deficient as a matter of law, the Complaint must be dismissed.

Pursuant to Wis. Stat. § 802.02(3)(a), this Court grants the Defendant's Motion for Summary Judgment due to Mr. Slocum's failure to set forth a short and plain statement of the claims and failure to identify the occurrences out of which the claims arise as necessitated under Wis. Stat. § 802.02(1)(a).

X. FRIVOLOUS COSTS

As previously noted, on September 15, 2014, the Defendants filed a Notice of Intent to file a Motion for Frivolous Costs and on April 2, 2015, the Defendants filed a Motion for Frivolous Costs. The Board of Review moves this Court to sanction Mr. Slocum on the basis that Mr. Slocum, in filing his Complaint and, more specifically, in naming the "Board of Review as a Party Defendant, did so with the improper intent of harassing the said Board of Review as well as to unnecessarily increase the cost of litigation to the Defendants, contrary to §802.05(2)(a), Wis. Stats." (Def.'s Notice of Motion and Motion for Frivolous Costs, p. 1). The Defendants further assert that Mr. Slocum has made a claim against the Board of Review which is not warranted by law or "by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law, contrary to §802.05(2)(b), Wis. Stats." (*Id.* at p. 2) Finally, the Defendants stated that Mr. Slocum cannot support his argument that "the Board of Review is liable to him in monetary damages, declaratory relief, 'applicable fines,' or other 'liabilities,' and upon the basis of any evidence he could supply to the Court nor that can be determined on the basis of further investigation or discovery, contrary to §802.05(2)(c), Wis. Stats." (*Id.*).

This Court finds that Mr. Slocum's filings and actions warrant sanctions. Mr. Slocum has cited many statutes that are not relevant to the current proceedings, directly contrary to § 802.05(2)(b), Wis. Stats. Mr. Slocum has advanced arguments which are not warranted by

existing law or by a non-frivolous argument due to their lack of relevance in the proceeding. It must further be acknowledged that Mr. Slocum has provided the Court with Affidavits that were signed before the Motion for Summary Judgment was even filed. This signifies that, rather than specifically responding to the Motion for Summary Judgment, Mr. Slocum merely presented this Court with Affidavits from previous Court proceedings of which have little, if any, bearing on the issues in the present proceeding. Due to these circumstances, the Court finds that frivolous costs are warranted

DECISION

Based on the foregoing, **IT IS HEREBY ORDERED** that the Defendant's Motion for Summary Judgment and Motion for Frivolous Costs is hereby GRANTED.

BY THE COURT:

Dated this 11th day of January, 2016.

Hon. Edward F. Vlack
St. Croix County Circuit Court Judge
Branch II