

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**April 17, 2012**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

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

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

**Appeal No. 2011AP2938-FT**

**Cir. Ct. No. 2011SC2656**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**SANDY S. PEEBLES,**

**PLAINTIFF-APPELLANT,**

**v.**

**LAURA S. ARNOLD,**

**DEFENDANT-RESPONDENT.**

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APPEAL from an order of the circuit court for Outagamie County:  
**DEE R. DYER, Judge. *Affirmed.***

¶1 HOOVER, P.J.<sup>1</sup> Sandy Peebles<sup>2</sup> appeals an order dismissing her small claims action and awarding ownership of a dog to Laura Arnold. On appeal, Peebles argues the evidence shows she is the dog's rightful owner. We affirm.

¶2 On August 25, 2011, Peebles brought a small claims action against Arnold, seeking the return of Lexi, a dog that had been living with Arnold since her brother, Lance Handrich, died in June 2011. Peebles testified she and Handrich dated on and off for eight of the past twelve years, and they purchased Lexi in September 2007. Lexi's registration certificate of pedigree lists Handrich and Peebles as Lexi's owners. Although Handrich always maintained a separate residence, Peebles explained that when they were dating, Handrich and Lexi would stay with Peebles at her residence. Peebles conceded Handrich paid for Lexi and her care and, as of January 2011, Lexi was living with Handrich at his residence. On June 25, 2011, Handrich unexpectedly died. Following Handrich's death, Lexi resided with Arnold. Peebles did not insist on possession of Lexi at that time because she "was trying to not ruffle any feathers[.]"

¶3 Arnold testified that, before Handrich's death, she and her family would help Handrich care for Lexi. Specifically, they would routinely go to Handrich's apartment to care for Lexi when he was working late. Following Handrich's death, Arnold took Lexi and has cared for her ever since. According to Arnold, Peebles had been over to her house several times since Handrich's death and never asked about Lexi. Arnold explained that on August 18, 2011, Peebles

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). This is an expedited appeal under WIS. STAT. RULE 809.17. All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

<sup>2</sup> Peebles appeared pro se in the circuit court. She is represented by counsel on appeal.

came to her with a police officer and demanded Lexi. At that time, Arnold refused to give Lexi to Peebles. Arnold opined that she was Lexi's rightful owner because she had been caring for Lexi, and Peebles had not shown any interest in Lexi until months after her brother's death.

¶4 The court advised Peebles that in a return of property case, she bore the burden of proving by a preponderance of the evidence that she owned Lexi. The court found the only evidence indicating she owned the dog was the pedigree registration certificate. The court determined the remaining evidence showed Handrich owned Lexi. Specifically, the court found Lexi was not shared between Handrich and Peebles because Handrich always kept Lexi with him and paid for her and her care. The court also found that whenever it was necessary to have someone besides Handrich care for Lexi, Handrich's family cared for the dog. The court concluded that Peebles did not meet her burden of proving she had any ownership interest in Lexi. The court dismissed Peebles' small claims action.

¶5 In a return of property action, i.e., a replevin, Peebles, as the plaintiff, bears the burden of proving ownership. *See WIS. STAT. § 810.02; see also First Nat'l Bank of Glendale v. Sheriff of Milwaukee Cnty.*, 34 Wis. 2d 535, 538, 149 N.W.2d 548 (1967). On appeal, Peebles first argues the circuit court erred by ignoring the pedigree registration certificate. She asserts she is Lexi's owner because the certificate lists her as a co-owner. In support, Peebles offers a single quotation from *Duncan v. Ehrhard*, 158 Wis. 2d 252, 260, 461 N.W.2d 822 (Ct. App. 1990): "In common usage, 'owner' is often equated to title-ownership." (Citation omitted.)

¶6 Arnold responds that, to the extent Peebles is making a claim for "title-ownership," her argument is inapposite. She points out that, in context, the

**Duncan** quotation discusses motor vehicle ownership. Arnold contends that a pedigree registration certificate is not the same as a motor vehicle certificate of title because a pedigree certificate only establishes a canine's bloodline and has little to do with ownership. Arnold also asserts that dogs "are not titleable objects of property."

¶7 Peebles did not file a reply in response to Arnold's arguments. Additionally, other than the single quotation from the **Duncan** case, Peebles has offered no legal authority or argument in support of her assertion that a pedigree registration certificate is comparable to a motor vehicle certificate of title. We will not address it. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (we need not consider undeveloped arguments).

¶8 Peebles also contends that, in addition to the pedigree certificate, other evidence shows she is Lexi's owner. Specifically, Peebles asserts the record shows she and Handrich picked up Lexi when the dog was purchased, Lexi lived with Handrich and her, and she helped raise Lexi and hunted with her.

¶9 We will uphold a circuit court's factual findings unless they are clearly erroneous. WIS. STAT. § 805.17(2). "A finding of fact is clearly erroneous when it is against the great weight and clear preponderance of the evidence." *Phelps v. Physicians Ins. Co. of Wis., Inc.*, 2009 WI 74, ¶39, 319 Wis. 2d 1, 768 N.W.2d 615 (citation omitted). Further, credibility determinations and the weighing of evidence are in the province of the circuit court. *Johnson v. Miller*, 157 Wis. 2d 482, 487, 459 N.W.2d 886 (Ct. App. 1990).

¶10 Here, the circuit court found Peebles failed to meet her burden of proving she had an ownership interest in Lexi. The court reasoned that the only piece of evidence showing Peebles owned Lexi was the pedigree registration

certificate. It found the remaining evidence showed Handrich, and then his family, cared for and owned Lexi. Specifically, it observed that Handrich always kept Lexi with him, he paid for Lexi and her care, and Handrich's family cared for Lexi when Handrich could not. The court's factual determinations are supported by the record, and therefore, not clearly erroneous. *See Phelps*, 319 Wis. 2d 1, ¶39.

*By the Court.*—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

