COURT OF APPEALS
DECISION
DATED AND FILED

January 24, 2017

Diane M. Fremgen
Clerk of Court of Appeals

Appeal Nos. 2016AP264
2016AP265

Cir. Ct. Nos. 2015FO275
2015FO276

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

OCONTO COUNTY,

PLAINTIFF-RESPONDENT,

V.

ROBERT J. KOLKOWSKI,

DEFENDANT-APPELLANT.

APPEALS from judgments of the circuit court for Oconto County: JAY N. CONLEY, Judge. *Affirmed*.

¶1 HRUZ, J.[1] Robert Kolkowski, pro se, appeals two judgments entered in favor of Oconto County imposing civil forfeitures for his violations of zoning ordinances. We affirm.

¶2 Kolkowski was cited for violating OCONTO COUNTY ZONING ORDINANCES § 14.406, operating a salvage yard or junkyard without a permit, and § 14.402(8)b., having over three semi-trailers for storage per parcel.[2] At trial, the County presented evidence that Kolkowski stored or kept scrap metals and three semi-trailers on his property in Oconto County despite that property being zoned only for agricultural use. Kolkowski, representing himself, made multiple objections on "jurisdictional" grounds, but he presented no evidence relating to the condition or zoning designation of his property.[3] The circuit court found by a preponderance of the evidence Kolkowski committed the ordinance violations and entered judgments in favor of the County, which Kolkowski now appeals.

¶3 Kolkowski's appellate argument is difficult to follow. We understand Kolkowski to be arguing: (1) the County violated his First, Fourth, Fifth, Sixth, Seventh, Eighth and Fourteenth Amendment rights, although his argument as to how the County allegedly did so is unclear; (2) the ordinances charged against him are constitutionally void for vagueness; and (3) the circuit

[1] These appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

[2] In its response brief, the County violates WIS. STAT. RULE 809.19(1)(i) when it refers to Kolkowski as "Appellant" rather than by his name in its argument section.

[3] Despite Kolkowski's and his wife's frequent disregard for courtroom decorum during the trial, as exhibited by the transcript in the record, the circuit court, with commendable patience, held neither one in contempt.

court lacked jurisdiction over him.[4] Regarding the first and second arguments, Kolkowski did not argue before the circuit court that the County violated his constitutional rights or that the ordinances were impermissibly vague. He concedes as much in his reply brief, summarily arguing only that the court's alleged failure to address "jurisdiction" somehow prevented his challenges. We disagree. The record shows Kolkowski was never precluded from asserting any challenges in the circuit court, including constitutional ones. We thus conclude Kolkowski has forfeited the right to argue his constitutional issues on appeal. *See* ***State v. Huebner***, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727.

¶4 While Kolkowski did not forfeit his jurisdictional argument, it is nevertheless without merit. He summarily claims—without any reference to legal authority or greater explanation—the County did not prove the "seven elements of jurisdiction" existed. The circuit court, however, possessed subject matter jurisdiction under WIS. STAT. § 753.03, because a zoning violation is a civil proceeding and the real estate Kolkowski owned subject to the citations was proven to be located in Oconto County. Regarding personal jurisdiction, the record shows Kolkowski is a resident of this State and, per WIS. STAT. § 66.0113(3), appeared in person in response to the citations issued to him.

[4] Kolkowski—who also refers to himself as "Robert: Kolkowski, sovereign flesh and blood man"—also asserts the County violated his "right to contract" by enforcing the ordinances, which he claims he "only can explain by the use of Corcoran's deductive system D for Aristotelian syllogistic" in addition to use of "Kreisel's famous 'squeezing argument.'" This verbiage is typical of many of Kolkowski's arguments, both in the circuit court and on appeal. We do not address this claim on appeal as it is undeveloped (or at least incomprehensible) and because it was not raised in the circuit court and therefore has been forfeited on appeal. *See* ***State v. Huebner***, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727.

¶5 Finally, Kolkowski vaguely argues his ostensibly unrefuted "Affidavit In the Truth," filed prior to trial, "is the highest form of prima facie evidence" and the circuit court improperly ignored it in rendering the judgment. His argument in this regard is unintelligible. Also, this "affidavit" was not part of the evidence presented at trial, as neither the document nor its contents were sworn to or admitted during the trial. *Cf.* ***Berna-Mork v. Jones***, 173 Wis. 2d 733, 741, 496 N.W.2d 637 (Ct. App. 1992) (an affidavit submitted prior to trial must give way to the evidence presented at trial). As such, nothing contained in this 700-line document—which consisted mostly of argument—needed to be considered for purposes of the trial, nor does anything in the document otherwise demonstrate any error by the circuit court.

By the Court.—Judgments affirmed.

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