

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 17, 2007

David R. Schanker
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. 2006AP2264

Cir. Ct. No. 2006SC201

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

CHARLES NORWOOD,

PLAINTIFF-APPELLANT,

V.

MARY NUENTHEL D/B/A SJ PEOPLE'S SHOW,

DEFENDANT-RESPONDENT.

APPEAL from a judgment of the circuit court for Trempealeau County: GERALD W. LAABS, Judge. *Affirmed.*

¶1 CANE, C.J.¹ Charles Norwood appeals a judgment dismissing his claim for return of his personal property. Norwood argues the trial court violated

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

his right to be present at trial, denied him the right to a fair trial by disallowing him the right to present evidence and call witnesses, and erroneously exercised its discretion by allowing a letter into evidence. We disagree and affirm the judgment.

BACKGROUND

¶2 Norwood worked as an employee for SJ People's Show. On August 26, 2004, Norwood was arrested and taken into custody. His belongings were in a bunkhouse owned by People's. In June 2005, Norwood filed a small claims action against People's seeking the return of his property.

¶3 At trial, Norwood presented various exhibits, but did not present any witnesses. Norwood objected to the proceeding with the trial court stating his subpoenaed witnesses were not present. The court reviewed the subpoena, stating:

The subpoena says that these two officers were served on May 17, 2006. I don't know what they were served with. It says a subpoena. There's no copy of the subpoena for me to look at. These—this case was set after that date. I don't know what this is that's being presented to the Court at this time, so you're going to proceed without.

¶4 Mary Nuenthel, Norwood's former supervisor, testified she packed up Norwood's possessions and placed them in People's winter quarters. She further stated that she never gave away or sold any of his possessions. She testified the possessions had been in storage for a year and a half where other employees had access to the storage and, therefore, some of it may have been removed. Additionally, Nuenthel informed the court that while Norwood did have a friend deliver an address to her after he was arrested, he did not provide her with any funds to mail any of his possessions. Nuenthel also stated she did not know what possessions of his remained in storage because Norwood did not provide her

with a description or itemization of his property. Nuenthel also provided a letter to the court that Norwood sent her where he stated that she could keep any of his possessions. Michael Stopher, a carnival ride operator, testified that he was with Nuenthel when she packed up Norwood's personal belongings. Stopher stated the items were placed in the winter quarters and none of the items were given away. Lisa Larson testified that on the day Norwood was arrested, he told her he did not care what happened to his stuff and said to just take care of his goldfish.

¶5 After listening to the testimony, the court dismissed Norwood's claim stating:

[T]here's been no proof of any of the value of the items that were left.... There was actually no proof of any items that were left. I'm not going to go by those pictures and try to establish what was left at the residence or at the place that he was living at. I find that the defendant here and Mr. Stopher were credible witnesses, that they packed up these items, did not sell or give any of those items away.... His items were left on the premises and he didn't make proper arrangements to obtain those items.... I also believe the other witness, her first name was Lisa, that Mr. Norwood made a statement that he didn't care what happened to the items.

DISCUSSION

¶6 Norwood's brief does not conform to WIS. STAT. RULE 809.19. Pro se litigants are "bound by the same rules that apply to attorneys on appeal." *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). Much of Norwood's brief lacks citation to the record. *See* WIS. STAT. RULE 809.19(1)(e). When Norwood does cite the record, his citations are often inadequate. In one case, Norwood's citation states "see file." A reviewing court need not sift the record for facts to support an appellant's contentions. *Keplin v. Hardware Mut. Cas. Co.*, 24 Wis. 2d 319, 324, 129 N.W.2d 321 (1964). Failure

of a person to conform to a requirement of RULE 809.19 is grounds for dismissal. *See* WIS. STAT. RULE 809.83(2).

¶7 In addition, Norwood’s arguments lack merit. Norwood first argues that he was denied the right to be present at trial. The “trial” Norwood refers to was actually a status conference hearing. Norwood cites no authority for the proposition that he had a right to be present at a status conference hearing for a civil matter. The only statute Norwood cites refers to criminal proceedings. *See* WIS. STAT. § 971.04(1)(b). This court will not consider arguments unsupported by proper legal authority. *State v. Shaffer*, 96 Wis. 2d 531, 545-46, 292 N.W.2d 370 (Ct. App. 1980).

¶8 Norwood next argues he was denied the right to present evidence and call witnesses. Norwood’s argument stems from the trial court’s refusal to grant a continuance due to his witnesses’ failure to appear. Norwood cites the Sixth Amendment to the United States Constitution, Wisconsin Constitution art. 1, § 7, and *State v. Sharlow*, 110 Wis. 2d 226, 327 N.W.2d 692 (1983). All of these authorities refer to criminal proceedings.

¶9 Though Norwood does not challenge the court’s ruling with respect to why a continuance was not granted, Nuenthel addresses this potential argument. Nuenthel correctly argues this is a matter of discretion for the trial court. *See Page v. American Family Mut. Ins. Co.*, 42 Wis. 2d 671, 677, 168 N.W.2d 65 (1969). Nuenthel further argues the trial court reasonably exercised its discretion in this regard because Norwood failed to show that he properly subpoenaed his witnesses. Norwood does not respond to this argument. Unrefuted arguments are deemed admitted. *State v. Peterson*, 222 Wis. 2d 449, 459, 588 N.W.2d 84 (Ct. App. 1998).

¶10 Finally, Norwood argues the trial court erred by admitting Norwood's letter to Nuenthel. Norwood states he was wrongly denied the right to inspect the letter and the letter was prejudicial. Norwood cites WIS. STAT. §§ 971.23 and 904.03 as support for his argument. Section 971.23 is a criminal statute and therefore does not apply. Section 904.03 is a rule of evidence. WISCONSIN STAT. § 799.209(2) states small claims proceedings "shall not be governed by the common law or statutory rules of evidence except those relating to privileges...." Under § 799.209(1), the trial court may examine all evidence "to the extent reasonably required for full and true disclosure of the facts." Further, there is no evidence the trial court relied on the letter in its ruling. The trial court did not refer to Norwood's statement in the letter that Nuenthel could keep any of his possessions. Instead, the court relied on Larson's testimony that on the day Norwood was arrested, he stated he did not care what happened to his stuff and said to just take care of his goldfish. The court also dismissed all counterclaims Nuenthel brought based on the letter.

By the Court. —Judgment affirmed.

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

