COURT OF APPEALS
DECISION
DATED AND FILED

July 18, 2007

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2006AP2514 **Cir. Ct. No. 1999FA1152**

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

IN RE THE FINDING OF CONTEMPT IN
IN RE THE MARRIAGE OF:

JAMES A. SCHLESNER,

PETITIONER-APPELLANT,

V.

BECKY M. ZSIDO P/K/A BECKY M. SCHLESNER,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Waukesha County: ROBERT G. MAWDSLEY, Judge. *Affirmed.*

¶1 SNYDER, P.J.[1] James A. Schlesner appeals from an order denying his request to reduce his child support obligation and finding him in contempt of court for failure to pay retroactive social security benefits into the trust account of his former attorney. Schlesner contends that the child support order and the circuit court's finding of contempt fail to consider that he is unable to maintain gainful employment because of a physical disability. He also argues he received ineffective assistance of counsel. We have reviewed the record and must disagree. Accordingly, we affirm the order of the circuit court.

BACKGROUND

¶2 James and Becky Schlesner (now Zsido) married on July 24, 1993. The marriage lasted five years, during which time two children were born. A final judgment of divorce was entered on July 6, 1998. At the time of the divorce, Becky was employed as a secretary and earned approximately $1560 per month. James was unemployed, but received approximately $515 per month in social security income. The circuit court found that James had an earning capacity of "at least $7.00 per hour for 40 hours per week." Recognizing that James was a serial support payer, the court then deducted 29% from the total. *See* WIS. ADMIN CODE § DWD 40.04(1)(b) 4 (June 2007). The resulting child support order required James to pay $49.75 per week, or 25% of his gross income, whichever was greater. Since the divorce, James has continued to accrue child support arrears.

¶3 In April 2005, the circuit court held a hearing to consider an Order to Show Cause on various child support issues. The court adjusted James' child

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

support obligation to $58.10 per week. In doing so, it held that James "has the ability to work but he avoids it like the plague." Three months later, the court learned that James had been approved for reinstatement of his social security disability benefits and ordered that the full amount of James' retroactive disability benefits be garnished and placed in trust until the court determined whether the money should be applied to child support arrears.

¶4 On February 7, 2006, Becky filed a motion for remedial contempt, alleging that James had received $5425.20 in retroactive disability benefits and, in violation of the circuit court's order, had dissipated all but $800 of the payment. Two months later, James filed a motion to modify child support due to a change in his financial circumstances.

¶5 The court held hearings on July 13 and 27, 2006. The primary issue was James' ability to work and meet his child support obligation. James introduced as evidence the decision of the Social Security Administration confirming his continued disability. There, the administrative law judge found that James: (1) met the disability insured status requirements of the Social Security Act, (2) had not performed substantial gainful employment since 1991, (3) has a "severe history" of orthopedic fractures, osteoarthritis and bladder problems, (4) cannot perform his past work and has no transferable skills, and (5) lacks the stamina for competitive employment. James also introduced expert testimony from Dr. Jerome Lerner that injuries from a 2004 car accident resulted in permanent pain and lack of mobility related to a spinal condition.

¶6 Becky introduced evidence at the hearings as well. Most notably, she introduced surveillance video showing James taking sailing lessons at the

Milwaukee Community Sailing Center. In its decision and order, the circuit court commented:

> [T]he credible evidence is that [James] is not totally disabled with a back condition and he is able to earn income. The videotapes of the sailing lesson prove conclusively that contrary to his own testimony [James] can walk painlessly for [a] significant distance and engage in the gymnastics required to pull a heavy sailboat along a pier, balance on a mooring line, bend underneath the boom of a sailboat, and successful[ly] complete two days of sailing lessons with one day in between.

¶7 The circuit court concluded that James' child support obligation would not be reduced. Further, it held that James had willfully disobeyed a court order when he spent the retroactive benefits payment rather than depositing it into the trust account of his attorney. The court ordered James to pay $4625, the amount he should have deposited into the attorney trust account, toward his child support arrears. It also ordered that if the payment was not made in five days from the date of the order, James was to be held in the county jail for forty-five days as a sanction for his contempt. The court set the purge condition as payment of the $4625.

DISCUSSION

¶8 James appeals pro se from the court's order, and focuses much of his appellate argument challenging the circuit court's findings of fact. In particular, he resents the circuit court's finding that he is able to work and should do so to help support his two children. James asserts that the court's findings are inconsistent, pointing out that the court acknowledged his disability by ordering him to pay support from his retroactive benefits but nonetheless held that he is physically able to work. As best we can tell, James also wishes to make a claim of ineffective assistance of counsel.

¶9 James' briefs are inadequate to permit appellate review in nearly every respect. Conspicuously absent are a coherent statement of facts, proper references to the record and citation to any legal authority to support his claim. His brief-in-chief is a rambling recitation of complaints about the circuit court, and a dissection of facts not of record. His reply brief is an attempt to draw on this court's sympathy for his pro se status, noting that he has already apologized for any "faux-pas" he may have "inadvertently" committed in his brief-in-chief, and suggesting courts should extend a "certain amount of latitude or understanding for the layman acting in pro-se status."

¶10 Schlesner requests our indulgence and understanding of his pro se status, apparently hoping that he will not be held to the standards of appellate procedure applied to all cases on appeal. However, pro se appellants must satisfy all procedural requirements, unless the court waives those requirements. ***Waushara County v. Graf***, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). James is bound by the same rules that apply to attorneys on appeal. *See* ***id.*** The right to self-representation is not a license to disregard rules of procedural and substantive law. ***Id.*** "While some leniency may be allowed, neither a trial court nor a reviewing court has a duty to walk pro se litigants through the procedural requirements or point them to the proper substantive law." ***Id.*** A pro se litigant's brief must, at a minimum, state the issues, the record facts necessary to understand them, and an argument on those issues. ***Id.*** James has not met these minimum requirements.

¶11 Compliance with the rules is required because as a high-volume intermediate appellate court, we cannot take time either to sift the record for facts to support the appellant's arguments or to distinguish facts of record from newly asserted allegations that are outside of the record. *See* ***State v. Pettit***, 171 Wis. 2d

627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). Nor is it the court's duty to develop legal arguments on behalf of the appellant. *See* ***id.*** For this reason, we may choose not to consider arguments unsupported by references to legal authority, arguments that do not reflect any legal reasoning, and arguments that lack proper citations to record authority. *See* ***id***.

¶12 We have always given pro se appellants a good measure of freedom in their brief writing. We do not expect the precision of a lawyer and we do not ask for rigid adherence to all parts of standard appellate practice. We do expect, however, a thoughtful and earnest presentation of well-articulated issues in a logically ordered way. Viewed from this standpoint, James' briefs do not meet minimum standards. His briefs are not a systematic review of the relevant facts and law. They are a disordered litany of unsupported factual and legal conclusions that leave us to reconstruct his potential claims from fragments. This we will not do. This court will not act as James' attorney. *See* ***id.*** ("We cannot serve as both advocate and judge.").

CONCLUSION

¶13 James has provided this court with nothing from which to cobble together a coherent appellate argument. Accordingly, the order of the circuit court, which is based on findings of fact supported by the record, is affirmed.

By the Court.—Order affirmed.[2]

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

[2] Becky has filed a motion for costs, fees and actual attorney fees pursuant to WIS. STAT. § 809.25(3), on grounds that James' appeal is frivolous. We do not believe that James' appeal sinks to the level of frivolousness. There is no indication that he intended to harass or maliciously injure Becky or to assert appellate arguments that he knew or should have known have no basis in law or equity. *See* § 809.25(3)(c). The motion for costs and fees is therefore denied.