

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**May 29, 2002**

Cornelia G. Clark  
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. 01-3276-CR**

**Cir. Ct. No. 01-CT-40**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**LEROY W. SENN,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Marinette County:  
DAVID G. MIRON, Judge. *Affirmed.*

¶1 CANE, C.J.<sup>1</sup> Leroy Senn appeals from a judgment after a jury trial convicting him of operating a motor vehicle while under the influence of an intoxicant, fourth offense, contrary to WIS. STAT. § 346.63(1)(a); operating a motor vehicle with a prohibited alcohol concentration, fourth offense, contrary to

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

WIS. STAT. § 346.63(1)(b); and failure to yield the right-of-way, contrary to a Marinette County ordinance adopting WIS. STAT. § 346.18(4). Senn contends that the trial court erred by: (1) denying his motion to adjourn the jury trial; (2) admitting Senn's statements when responding to a request for a blood test; and (3) concluding that instructing the jury to disregard a witness's answer to a question cured the objectionable nature of the testimony. He also contends that the evidence is insufficient to support the convictions for OWI and failure to yield the right-of-way. We reject his contentions and affirm the judgment.

¶2 At approximately 7:15 a.m., Senn drove his car from a parking lot onto a highway and across the path of two approaching cars. Senn then swerved to avoid hitting the vehicles, causing his car to strike and come to rest on a highway guardrail. Officer Daniel Beauchamp of the Marinette County Sheriff's Department was dispatched to the accident scene where he found Senn with a friend who had stopped to help him. After observing Senn, Beauchamp arrested him for OWI and transported him to a hospital. Despite Senn's objections, his blood was tested for alcohol content at the hospital, and the analysis showed a blood alcohol content of .291%.

¶3 Prior to trial, Senn filed a motion to adjourn the jury trial because of his weak heart condition. The trial court denied the motion. The transcript of that proceeding is not part of the record on appeal. On the morning of the jury trial, Senn renewed his motion to adjourn the trial because of his weak heart condition and submitted a report containing generic information on heart conditions. The transcript of that proceeding is part of the record and is the basis upon which Senn argues that the trial court wrongfully exercised its discretion by denying the motion and proceeding with the jury trial.

¶4 Whether to grant or deny a motion to adjourn a trial is a matter for the trial court's discretion. *State v. Fink*, 195 Wis. 2d 330, 338, 536 N.W.2d 401 (Ct. App. 1995). As the State correctly argues, our review is limited to the record, *Nelson v. Schreiner*, 161 Wis. 2d 798, 804, 469 N.W.2d 214 (Ct. App. 1991), and here we do not have a record of the earlier motion to adjourn. Thus, our review on this issue is limited to the record presented on the morning of the jury trial.

¶5 The trial court stated for the record that it observed Senn when he first appeared in court that morning and noted that Senn had been able to sit in court while being attentive to the questions his counsel had asked of him about the preliminary matter of stipulating to the prior OWI convictions. The trial court also noted that Senn was following what was being said in the proceedings and appeared to be able to assist in his defense. Neither Senn nor his counsel disputed the court's observations, and everyone moved on to other preliminary matters before starting the jury trial. A review of the jury trial transcript shows that Senn was present throughout the trial and testified. Nothing in the record shows how Senn's heart condition rendered him unable to assist his counsel or participate in the trial. Based on this record, we are satisfied that the trial court reasonably exercised its discretion by denying the motion to adjourn the trial.

¶6 Next, Senn argues that the trial court erred: (1) by admitting his testimony in connection with the blood draw; (2) by concluding that the curative instruction was ineffective to disregard Beauchamp's answer to a question that because of Senn's intoxication he did not think Senn could see him; and (3) because a plain reading of the trial transcript would show that the evidence was insufficient to convict him of OWI and failure to yield the right-of-way. The entire argument on these issues is presented in a total of ten sentences.

¶7 Senn's arguments are not developed themes reflecting any legal reasoning. Only conclusory statements support the arguments. We decline to review issues inadequately briefed. *State v. SH.*, 159 Wis.2d 730, 738, 465 N.W.2d 238 (Ct. App. 1990); *see also* WIS. STAT. RULE 809.19(1)(e). Additionally, Senn cites no legal authority in support of these claims. Arguments unsupported by references to legal authority will not be considered. *See State v. Shaffer*, 96 Wis. 2d 531, 545-46, 292 N.W.2d 370 (Ct. App. 1980).

¶8 As we observed in *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992), we sometimes (perhaps too often) make allowances for appellate counsel's failure to abide by these rules. However, we are a fast-paced, high-volume court. There are limits beyond which we cannot go in overlooking these kinds of failings. Here, Senn's brief is so lacking in substance that for us to decide his issues, we would first have to develop them. We cannot serve as both advocate and judge. In light of Senn's inadequate briefing of these remaining issues, we decline to address them. *See* WIS. STAT. RULE 809.83(2).

*By the Court.*—Judgment affirmed.

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