

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 29, 2011

A. John Voelker
Acting 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 Nos. 2010AP1859
2010AP1860
2010AP1861
2010AP1862
2010AP1863**

**Cir. Ct. Nos. 2010FO000053
2010FO000054
2010FO000055
2010FO000056
2010FO000057**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

CITY OF MILWAUKEE,

PLAINTIFF-RESPONDENT,

v.

TIMOTHY J. BROPHY, JR.,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
CLARE L. FIORENZA, Judge. *Affirmed.*

¶1 BRENNAN, J.¹ Timothy J. Brophy, Jr., appeals from circuit court orders dismissing his appeals from five municipal court decisions. The circuit court dismissed the appeals on the grounds that Brophy failed to comply with the notice requirements for an appeal from a municipal court decision set forth in WIS. STAT. § 800.14. We affirm.

BACKGROUND

¶2 Between August 2006 and June 2009, the City of Milwaukee filed five civil forfeiture actions in the City of Milwaukee Municipal Court against Brophy, alleging violations of the Milwaukee Code of Ordinances.² The municipal court entered judgment against Brophy in all five cases, and Brophy did not appeal.

¶3 In January 2010, Brophy filed a motion in municipal court requesting an indigency hearing to address his payment of the forfeitures imposed in each of the five cases. The municipal court granted Brophy's motion and held a hearing on January 21, 2010. At the conclusion of the hearing, the municipal court found that Brophy was not indigent and entered its finding in the record the same day.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(b) (2009-10). All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

² The actions include City of Milwaukee Municipal Court Case Nos. 06084069, 06089020, 07010549, 07010550, and 09077452.

¶4 On February 10, 2010, Brophy filed notices of appeal with the municipal court, but it is undisputed that Brophy failed to serve the notices of appeal upon the City. The City was later notified of Brophy's appeals by the municipal court. The City moved to dismiss the appeals for failure to notify the City as required by WIS. STAT. § 800.14(1). The trial court granted the motion and dismissed the appeals. Brophy appeals the circuit court's decision to this court.

DISCUSSION

¶5 Brophy admits, both before the circuit court and this court, that he did not strictly abide by WIS. STAT. § 800.14(1)'s notice requirements for an appeal from a municipal court decision, but he argues that he substantially complied with the statute and that is all that is required. We disagree.

¶6 To determine whether Brophy complied with WIS. STAT. § 800.14(1), we turn to the language of the statute. When engaging in statutory interpretation, our purpose is to discern the intent of the legislature. *Kenison v. Wellington Ins. Co.*, 218 Wis. 2d 700, 704, 582 N.W.2d 69 (Ct. App. 1998). "We begin by examining the plain language of the statute, and if the language is not ambiguous, we apply the plain meaning of the statute to the facts before us." *Id.* at 704-05. Statutory interpretation raises a question of law that we review *de novo*. *Id.* at 704. Here, we conclude that the statute's plain language is not ambiguous.

¶7 WISCONSIN STAT. § 800.14 states, in pertinent part:

Appeal from municipal court decision. (1) Appeals from judgments, decisions on motions brought under

s. 800.115, or determinations regarding whether the defendant is unable to pay the judgment because of poverty ... may be taken by either party to the circuit court of the county where the offense occurred. The appellant *shall* appeal by giving the municipal judge *and other party written notice of appeal* within 20 days after the judgment or decision....

(Emphasis added.) The statute explicitly states that a party wishing to file an appeal from a municipal court decision “shall ... giv[e] ... [the] other party written notice of appeal within 20 days after the judgment or decision.” The statute says nothing about substantial compliance. To the contrary, the statute mandates—through its use of the word “shall”—that a party seeking to challenge a municipal court decision notify the opposing party in writing of its intent to pursue such relief. Brophy admits that he did not do so, despite the statute’s clear language. Consequently, the circuit court properly dismissed his appeals.

¶8 We also note that Brophy has been aware of WIS. STAT. § 800.14(1)’s notice requirements since at least June 2008—almost two years before the statute required that he serve the City to perfect his appeal in this case. In June 2008, he attempted to appeal several other municipal court decisions to the circuit court in circumstances nearly identical to the ones before us now. As he did here, Brophy filed a notice of appeal with the municipal court but did not notify the City. The circuit court, in a thorough and well-written decision, dismissed Brophy’s appeal for the same reasons we set forth above.³

³ We refer to the circuit court’s June 13, 2008 order in Milwaukee County Circuit Court Case Nos. 07-FO-3005, 07-FO-3006, 07-FO-3007, and 07-FO-3008, which is included in the record in this case.

¶9 Consequently, it should now be clear to Brophy that he must give written notice of an appeal to both the municipal court and the opposing party if he wishes to appeal a municipal court judgment.

By the Court.—Orders affirmed.

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

