

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 24, 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 No. 2010AP465

Cir. Ct. No. 2009CV5827

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

KRISTEN B. GRALL,

PLAINTIFF-APPELLANT,

v.

STATE OF WISCONSIN LABOR AND INDUSTRY REVIEW COMMISSION,

DEFENDANT-RESPONDENT,

WHEATON FRANCISCAN HEALTHCARE,

DEFENDANT.

APPEAL from an order of the circuit court for Milwaukee County:
DENNIS P. MORONEY, Judge. *Affirmed.*

Before Curley, P.J., Kessler and Brennan, JJ.

¶1 PER CURIAM. Kristin B. Grall, *pro se*, appeals from an order of the circuit court, which affirmed the decision of the Labor and Industry Review

Commission. Grall primarily contends that she should have been allowed to adjourn her unemployment compensation appeal hearing so that she could subpoena additional witnesses. We affirm.

¶2 Grall was employed as a nurse at St. Joseph’s Hospital, part of Wheaton Franciscan Healthcare. When Grall arrived for work shortly before her 3 p.m. start time on August 2, 2008, she had a migraine headache. Her colleagues suggested she rest to see if she would recover. Someone clocked Grall out around 3:50 p.m. At some point, Grall was advised to go home, although she was hoping to recover in time to start working at 7 p.m.

¶3 Shortly before 5 p.m., Grall began breaking out in hives. She went to an automated dispensing unit, used to dispense patient medication. The unit operates by an employee swiping his or her identification badge, selecting the medication, and selecting the patient for whom the medication is intended. The machine then dispenses the medication and bills the patient. Grall ordered a dose of Benadryl, inadvertently selecting an intravenous dose. She disposed of that medication, listing it as “wasted” so that it would not be billed to a patient. Grall then ordered Benadryl in pill form, for which a patient was billed.¹

¶4 Another nurse observed Grall in the room with the dispensing unit, a surprise because she thought Grall had gone home. The nurse observed the unit’s screen go dark, which suggested the machine had recently been used. The nurse informed a supervisor of what she observed. Electronic records confirmed that Grall ordered the Benadryl, and she was fired the following Monday.

¹ The charge to the patient was \$4.25.

¶5 Grall applied for unemployment compensation, which was denied when a deputy determined Grall’s termination was for misconduct. An administrative law judge held a hearing and affirmed the deputy’s original denial. The Commission later affirmed the administrative law judge’s decision, adopting his findings and conclusions as its own. Grall sought review in the circuit court, which affirmed the Commission. Grall now appeals.

¶6 In her brief, Grall sets forth two issues in her statement of issues: whether the circuit court treated her unfairly “by ignoring the fact that [the] Administrative Law Judge unfairly blocked [her] from calling witnesses” and “by additionally ignoring the fact that [the Commission] did NOT follow usual [and] customary legal protocol” by filing an affidavit of service with its circuit court brief. In her argument section, which consists of one page, Grall asserts that she “deserved the right” to have her witnesses testify, alleges that the unemployment appeal process is rigged against employees, and contends that “[t]he [q]uestion everyone ... has failed to ask themselves is: Why would someone in their right mind ... risk losing her job ... by stealing something that was probably worth only a dollar, if purchased at a retail store?”

¶7 We decline to reach the merits of Grall’s appeal.² “[P]roper appellate argument requires an argument containing the contention of the party, the reasons therefor, with citation of authorities, statutes and that part of the record relied on[.]” *State v. Gulrud*, 140 Wis. 2d 721, 730, 412 N.W.2d 139 (Ct. App. 1987); *and see* WIS. STAT. RULE 809.19(1) (2009-10). Grall’s statement of the case does not set forth any factual information or record citation but instead refers

² Grall’s appeal would, however, also fail on the merits.

us directly to the record. However, we have no obligation to independently search the record on Grall's behalf. *See Grothe v. Valley Coatings, Inc.*, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463. Her argument further lacks citation to any legal authority. *See State v. Shaffer*, 96 Wis. 2d 531, 545-46, 292 N.W.2d 370 (Ct. App. 1980).³

¶8 “There are limits beyond which we cannot go in overlooking these kinds of failings.” *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992). In order for us to decide Grall's issues, we would first have to develop the issues and arguments for her, but we cannot serve as both advocate and judge. *Id.* We therefore decline to consider her arguments.⁴

By the Court.—Order affirmed.

This opinion shall not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2009-10).

³ It also appears that the issue relating to the affidavit of service was not raised in the circuit court. We do not consider issues raised for the first time on appeal. *State v. Caban*, 210 Wis. 2d 597, 604, 563 N.W.2d 501 (1997). A party raising an issue on appeal has the burden of showing the matter was raised previously in the circuit court. *Id.*

⁴ *Pro se* appellants are bound on appeal to satisfy all procedural requirements. *See Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). We may waive some requirements, and extend some leniency, but self-representation does not excuse compliance from the basic requirements that a brief state the issues, provide relevant facts in the record necessary to understanding those issues, and present argument on those issues. *Id.*

