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DISTRICT IV

June 6, 2024

To:

Hon. Jacob B. Frost
Circuit Court Judge
Electronic Notice

Kayleigh Cowan
Electronic Notice

Delilah D. Shaw

Jeff Okazaki
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2023AP2040

Petitioner v. Delilah D. Shaw (L.C. # 2023CV2763)

Before Blanchard, Nashold, and Taylor, JJ

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Petitioner appeals an order of the circuit court that denied her petition for a harassment injunction against Delilah Shaw. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ The order is summarily reversed as a sanction against Shaw, *see* WIS. STAT. RULE 809.83(2), and the cause is remanded with directions to grant the injunction.

Petitioner sought a temporary restraining order (TRO) against Shaw and a hearing for a harassment injunction. Petitioner alleged that Shaw had sent the petitioner inappropriate emails

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

over the course of several months. Petitioner also alleged that Shaw arrived at petitioner's home and blocked petitioner in her car while it was in her driveway, and then yelled profanities at her, tried to open the driver's side door of petitioner's car, spat on the car, and videotaped petitioner in her car and posted the resulting video on Facebook. A court commissioner entered a temporary restraining order and scheduled a hearing before the circuit court for a harassment injunction. After the injunction hearing, the circuit court denied the petition for a harassment injunction.

Petitioner filed her appellant's brief on January 17, 2024. In an order dated February 26, 2024, we notified Shaw that her respondent's brief was delinquent and, unless the brief was filed or an extension sought within five days, the appeal would be subject to summary disposition. We did not receive a response of any kind from Shaw.

In an order dated March 22, 2024, we again cautioned Shaw that failure to file a respondent's brief would put the appeal at risk for summary reversal, because such failure tacitly concedes that the circuit court erred. *See State ex rel. Blackdeer v. Township of Levis*, 176 Wis. 2d 252, 260, 500 N.W.2d 339 (Ct. App. 1993). We directed that the appeal be submitted to the court to review whether the appeal could be decided based solely upon the appellant's brief and the record.

In an order dated May 10, 2024, we informed Shaw that we would summarily reverse this appeal if she failed to file the respondent's brief within five days. Our order specifically stated that failure to file the respondent's brief as directed would constitute an abandonment of the appeal. *Raz v. Brown*, 2003 WI 29, ¶36, 260 Wis. 2d 614, 660 N.W.2d 647. We have not received a response of any kind from Shaw, and no respondent's brief has been filed.

Therefore,

IT IS ORDERED that the order appealed is summarily reversed as a sanction for failure to file the respondent's brief, *see* WIS. STAT. RULE 809.83(2), and the matter is remanded to the circuit court with directions to grant the harassment injunction against Shaw.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals