



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT II

July 3, 2024

To:

Hon. Faye M. Flancher
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Robert Ezell Carradine
Electronic Notice

Christian Danielle Jones
1319 Monroe Ave.
Racine, WI 53405

Jeffrey M. Leggett
Racine County Corporation Counsel
730 Wisconsin Avenue
Racine, WI 53403

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

2022AP1719

Christian Danielle Jones v. Robert Ezell Carradine
(L.C. #2016PA565PJ)

Before Gundrum, P.J., Grogan and Lazar, 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).

In this paternity action, Robert Ezell Carradine appeals from an order of the circuit court granting Christian Danielle Jones sole legal custody and primary placement. In doing so, he asserts the court violated his constitutional rights. 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

Carradine’s brief does not comply with several rules of Wisconsin appellate procedure. His brief fails to include “[a] statement of the issues presented for review and how the [circuit] court decided them.”² WIS. STAT. RULE 809.19(1)(b). It also fails to include a statement of the case, including “a description of the nature of the case,” “the procedural status of the case leading up to the appeal,” and “a statement of facts relevant to the issues presented for review, with appropriate references to the record.” RULE 809.19(1)(d).

Despite Carradine’s failure to provide a proper statement of the case, we have been able to deduce the following from the record on appeal. Jones is the mother of Cody,³ who was born on February 24, 2016. Carradine was adjudicated the father of Cody by default on August 29, 2017.⁴ The order awarded sole legal custody and primary placement to Jones and ordered Carradine to pay child support and arrears. On March 12, 2021, Carradine filed a motion to modify legal custody, physical placement, and child support.⁵ The circuit court held a court trial

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

² Carradine’s brief does include sections entitled “STATEMENT OF ISSUES” and “STATEMENT OF CASE AND FACTS,” but these sections do not include the necessary information.

³ Cody is a pseudonym.

⁴ Court Commissioner Daniel J. Rieck, presiding.

⁵ Subsequently, Jones failed to appear at a July 13, 2021 hearing, and Commissioner Aaron Lamberty modified custody and physical placement, giving Carradine joint legal custody and physical placement for three hours every Tuesday and Thursday and seven hours on Saturdays. At a review hearing on October 5, 2021, Commissioner Lamberty made no changes to custody or placement but appointed a guardian ad litem and a family court worker “to investigate the issues of custody and placement as both parent[s] raise[] several concerning issues.” On June 1, 2022, the Honorable Faye

(continued)

on Carradine’s motion on September 20, 2022. After the close of evidence and after discussing the procedural history of the case, the court “consider[ed] all facts relevant to the best interest of the child” as required by WIS. STAT. § 767.41(5)(am). In the end, the court ordered sole legal custody and primary placement with Jones.⁶ The court also ordered that Carradine have continued supervised placement until he “ha[s] a full psychological evaluation” and “follow[s] through with any treatment recommendations” and “participate[s] in a certified batterers treatment program.”

On appeal, Carradine takes issue with the circuit court’s order. He asserts that the court should have granted him fifty percent “custody.”⁷ Carradine maintains that parents have a “fundamental and statutory right to assume equal periods of placement” and by granting sole legal custody and primary placement with Jones, the court violated his right to equal placement. He seems to also assert that the court was biased against him and failed to “prove” he is an unfit parent or harmful to the child.

It is the appellant’s (here Carradine’s) burden on appeal to demonstrate that the circuit court erred. *See Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381. Carradine cites many various state⁸ and federal statutes, legal decisions, and constitutional

Flancher entered an order giving sole legal custody and primary placement to Jones and ordering that Carradine’s placement be supervised.

⁶ The Honorable Faye Flancher held the evidentiary hearing and entered the order.

⁷ Carradine appears to be referring to both legal custody and placement.

⁸ We note that Carradine cites to WIS. STAT. § 767.24 (1983-84), the child custody statute referenced in *Barstad v. Frazier*, 118 Wis. 2d 549, 348 N.W.2d 479 (1984). In 2005, that statute and the other statutes referenced by Carradine were renumbered. *See* 2005 Wis. Act 443.

provisions but fails to develop a sufficient legal argument as to how the circuit court erred. *See* WIS. STAT. RULE 809.19(1)(e) (an appellant must support his or her arguments “with citations to the authorities, statutes and parts of the record relied on”). “We will not address undeveloped arguments.” *See Clean Wis., Inc. v. PSC*, 2005 WI 93, ¶180 n.40, 282 Wis. 2d 250, 700 N.W.2d 768; *see also State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (an appellate court may decline to review issues that are insufficiently briefed or unsupported by legal authority). Although Carradine is pro se, his briefs must still comply with these procedural requirements. *See Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (“*Pro se* appellants must satisfy all procedural requirements, unless those requirements are waived by the court. They are bound by the same rules that apply to attorneys on appeal.”).

An appellate court cannot properly serve as both advocate and judge, *see Pettit*, 171 Wis. 2d at 647, and thus, it is inappropriate for us to “abandon our neutrality to develop arguments” for Carradine, *see Industrial Risk Insurers v. American Eng’g Testing, Inc.*, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. *See also Doe 1 v. Madison Metro. Sch. Dist.*, 2022 WI 65, ¶35, 403 Wis. 2d 369, 976 N.W.2d 584 (“[Appellate courts] do not step out of our neutral role to develop or construct arguments for parties; it is up to them to make their case.” (citation omitted)). Having failed to develop any legal arguments to demonstrate how the circuit court may have erred, Carradine has failed to meet his burden as the appellant; thus, we affirm.

IT IS ORDERED that the order of the circuit court is affirmed. *See* WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals