

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 3, 2012

Diane M. Fremgen
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. 2010AP3097

Cir. Ct. No. 2009FA155

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

IN RE THE MARRIAGE OF:

CINDY LOU WEBER,

PETITIONER-RESPONDENT,

V.

RANDALL SCOTT HANDELAND,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Trempealeau County: JOHN A. DAMON, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Mangerson, JJ.

¶1 PER CURIAM. Randall Handeland, pro se, appeals his divorce judgment.¹ He challenges jurisdiction, child support, and property division. We affirm.

¶2 Randall and Cindy Weber were married on March 17, 2007 and divorced on November 10, 2010. The marriage produced one minor child. At the time of the final hearing, Cindy was employed part-time in the healthcare field earning nine to ten dollars hourly. Randall was incarcerated, stemming from charges of growing marijuana on public land in Oneida County.

¶3 A temporary order established Randall's child support obligation at \$517 monthly, and also established a temporary placement schedule. Cindy moved for revision of the temporary order based on Randall's arrest for growing marijuana. Randall did not appear for a hearing held on September 22, 2010. The circuit court adopted the guardian ad litem's recommendation of sole custody and primary placement with Cindy. A final hearing was scheduled for November 3, 2010. After being served with an order to appear at the final hearing, Randall filed a notice of appeal from the September 22 hearing.

¶4 Randall did not appear at the hearing on November 3, 2010. The circuit court entered a final order awarding sole custody and primary placement to Cindy. The court also continued the \$517 monthly child support awarded at the temporary hearing, plus an additional \$100 monthly toward arrearages of \$6,835.15. Various items of Randall's personal property in Cindy's possession were ordered liquidated to assist the child's support given Randall's incarceration

¹ Randall appeals a temporary order and the final judgment concerning his divorce.

and failure to pay child support. No maintenance was awarded to either party. The court also required Randall to contribute \$1,450 towards Cindy's attorney fees. On December 13, 2010, Randall appealed from the November 3 judgment.

¶5 Randall first argues that he properly appealed from the September 22 temporary order. He claims improper notice and also argues the temporary order should be construed as a final order. This issue is moot. Randall was provided proper notice of the September 22 hearing. More importantly, however, the hearing did not produce a final order that disposed of the entire matter as to one or more of the parties. *See* WIS. STAT. § 808.03(1).² The issues merely involved a motion to revise the temporary order regarding immediate child custody and placement due to Randall's incarceration.

¶6 Randall was also provided proper notice of the final divorce hearing. A scheduling order dated September 3, 2010 explicitly stated that Randall had appeared at a hearing on August 24 to request a continuance to obtain counsel. The court granted the request. The scheduling order gave formal notice that the final hearing was rescheduled to November 3, 2010. Randall had actual notice of that date by being present in court on August 24. In addition, Randall was subsequently served with an order to appear on November 3.

¶7 Randall insists that despite actual notice and service of an order to appear, he assumed a continuance of the November 3 final hearing was granted

² Randall does not have a right to appeal the September 22, 2010 hearing, as it was not a final hearing.

All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

based upon court correspondence dated October 13, 2010. Randall provides a purported copy of this correspondence in his brief's appendix, but it is not part of the record on appeal. A party may not use the brief's appendix to supplement the record, and the correspondence therefore shall not be considered. *See Reznichuk v. Grall*, 150 Wis. 2d 752, 754 n.1, 442 N.W.2d 545 (Ct. App. 1989). Regardless, nothing in the court's correspondence implies the November 3 hearing was continued. In fact, the three-sentence correspondence acknowledged receipt of Randall's September 29, 2010 letter, which requested the court "[r]eschedule the motion hearing of Sept. 21st 2010" Nothing in Randall's September 29 letter requests a continuance, adjournment or rescheduling of the November 3, 2010 hearing.

¶8 Randall also argues the circuit court lacked competency to proceed with the final hearing on November 3, 2010. More specifically, he alleges the court improperly "rendered judgment for Cindy W. in a case that was currently pending in the court of appeals." However, Randall fails to sufficiently develop an argument. *See M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988). Nevertheless, Randall fails to provide the date the record was transmitted to the court of appeals. The record was transmitted on January 31, 2011. The circuit court therefore was competent to act on all issues regarding the final divorce hearing on November 3, 2010. *See WIS. STAT. § 808.075(3)*.

¶9 Randall seeks to advance other insufficiently developed or unsupported arguments³ concerning child support, termination of the guardian ad

³ For the first time in his reply brief, Randall argues the circuit court failed to make a finding of his ability to pay the attorney fees award. We will not consider arguments raised for the first time in the reply brief. *See Northwest Wholesale Lumber v. Anderson*, 191 Wis. 2d 278, 294 n.11, 528 N.W.2d 502 (Ct. App. 1995).

litem's appointment, and the court's order to liquidate his personal property. We also decline to fully address these issues. *See M.C.I.*, 146 Wis. 2d at 244-45.

¶10 However, we note that a July 2, 2010 scheduling order required Randall to provide tax returns to the child support agency by August 1. The scheduling order also required Randall to provide a financial disclosure statement, a property division proposal and a position statement regarding child support and placement. The subsequent September 3 scheduling order required Randall to provide financial information, a proposed property division and a position statement by October 18, 2010.

¶11 Randall did not appear at the final hearing on November 3, 2010. Cindy testified at the final hearing that Randall failed to provide financial information, pay stubs or tax returns. Cindy also testified that Randall failed to comply with discovery requests for financial information. The record also evidences that Randall failed to file the required position statements and proposals with the court.

¶12 Randall alleges the GAL failed to investigate numerous hearsay accusations related to Cindy, but the record demonstrates the GAL's recommendations were based upon appropriate factors. Randall also claims that he sent numerous letters and motions to the court with no acknowledgment. However, Randall fails to demonstrate by appropriate citations to the record that he made any efforts to contact the court to schedule hearing dates. Rather, it appears he put the burden on the court, the GAL or Cindy to schedule motions and hearings.

¶13 In summary, Randall repeatedly failed to comply with the circuit court's scheduling orders, appear at various hearings, or provide financial

information, property division proposals, or position statements regarding child support and placement. He will not now be heard to complain about perceived injustices that would require this court to vacate the divorce judgment.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

