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DISTRICT IV

September 6, 2024

To:

Hon. Gloria L. Doyle
Circuit Court Judge
Electronic Notice

Tammy Pedretti
Clerk of Circuit Court
La Crosse County Courthouse
Electronic Notice

Juneteenth Committee
c/o Shamawyah Curtis
231 Copeland Ave.
La Crosse, WI 54603

Smashh Tyme S K LLC
c/o Felicia Booker
1100 Kane St.
La Crosse, WI 54603

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

2023AP1890

Smashh Tyme S K LLC v. Juneteenth Committee
(L.C. # 2023SC896)

Before Graham, J.¹

Smashh Tyme S K LLC, pro se, appeals a circuit court order dismissing its small claims complaint seeking money damages from Juneteenth Committee.² On this court's own motion, this appeal is disposed of summarily pursuant to WIS. STAT. RULE 809.21(1).³ I reject Smashh Tyme's arguments and affirm.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version.

² Smashh Tyme also named another defendant, Hope Restores, in its complaint. Smashh Tyme has not named Hope Restores as a respondent in this appeal, and does not appear to appeal the dismissal of its claims against Hope Restores.

³ WISCONSIN STAT. RULE 809.21(1) provides that, "upon its own motion or upon the motion of a party," this court "may dispose of an appeal summarily."

According to Smashh Tyme’s complaint, it provided food vendor services at an event hosted by Juneteenth Committee in June 2023, and Smashh Tyme was not sufficiently compensated for these services. The case proceeded to a bench trial held in October 2023. According to the trial docket entry notes, the circuit court determined that Smashh Tyme did not follow the terms of its contract with Juneteenth Committee, and also that Smashh Tyme had waived its right to sue Juneteenth Committee under that contract. The court dismissed Smashh Tyme’s complaint.

On appeal, Smashh Tyme contends that the circuit court’s order of dismissal should be reversed, asserting, among other things, that the court showed bias and that Juneteenth Committee breached the contract.⁴ I reject Smashh Tyme’s arguments due to deficiencies in its appellate submissions.

Most importantly, Smashh Tyme did not make the trial transcript part of the appellate record.⁵ See *Schaidler v. Mercy Med. Ctr. of Oshkosh, Inc.*, 209 Wis. 2d 457, 469, 563 N.W.2d 554 (Ct. App. 1997) (it is the appellant’s responsibility to ensure that the appellate record is

⁴ Juneteenth Committee filed a letter stating that it opposes Smashh Tyme’s appeal, but Juneteenth Committee has not filed a respondent’s brief in conformance with the criteria set forth in WIS. STAT. RULE 809.19(1) and (3)(a)2. This court issued an order requiring the clerk to submit the appeal to this court to determine whether the appeal may be decided based solely on Smashh Tyme’s brief and the record. This order noted that “[s]ummary reversal is ... a potential sanction for a respondent’s failure to file a brief.” See *State ex rel. Blackdeer v. Township of Levis*, 176 Wis. 2d 252, 259-60, 500 N.W.2d 339 (Ct. App. 1993). Based on my review of the briefing and the record, I conclude that summary reversal is not an appropriate sanction for reasons including the deficiencies in Smashh Tyme’s own submissions.

⁵ The record contains docket entry notes associated with the trial, as well as a two-page document entitled “Courtroom Minutes” summarizing the proceeding. However, these summary materials are not the verbatim record required on appeal. See WIS. STAT. RULE 809.11(4)(a) (“The appellant shall request a copy of the transcript of the court reporter’s verbatim record of the proceedings ...”).

complete). The scope of appellate review is “limited to the record,” *Schimke v. Milwaukee and Suburban Transportation Co.*, 34 Wis. 2d 317, 320, 149 N.W.2d 659 (1967), and if a transcript from a proceeding is missing from the appellate record, the appellate court assumes that the missing transcript would support any decision that the circuit court made during that proceeding, see *Schaidler*, 209 Wis. 2d at 470. Without the trial transcript, Smashh Tyme is unable to support its arguments with citations to the “parts of the record relied on” or assert facts with “appropriate references to the record,” as required by the rules of appellate procedure.⁶ See WIS. STAT. RULE 809.19(1)(d), (e).

By way of example, Smashh Tyme argues, among other things, that the circuit court failed to permit it to call a witness, that the court “end[ed] trial early because it took too much time,” and that the trial evidence showed that Juneteenth Committee breached the parties’ contract “by letting [Smashh Tyme] work the event without warning [Smashh Tyme that it] wouldn’t get paid.” The lack of a transcript is fatal to all of these arguments. In the absence of the trial transcript, I cannot evaluate whether the court improperly constrained the presentation of evidence, nor can I evaluate what the evidence may or may not have shown about the communications that occurred between Smashh Tyme and Juneteenth Committee. I must assume that missing record material supports the court’s ruling. See *Schaidler*, 209 Wis. 2d at 470.

Additionally, Smashh Tyme’s arguments fail because they are undeveloped and unsupported by citation to legal authority. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d

⁶ In its appellant’s brief, Smashh Tyme provides a narrative of the incident forming the basis of its complaint. I do not consider this narrative because it is unsupported by citation to the record.

633 (Ct. App. 1992) (this court need not address undeveloped arguments or arguments unsupported by citation to authority). For example, Smashh Tyme contends that the circuit court “disregarded” the code of judicial conduct set forth in SCR ch. 60, but it does not identify any specific rule set forth in that chapter that the court purportedly breached, nor does it explain how any such purported breach would entitle Smashh Tyme to relief. As another example, Smashh Tyme asserts that there is a genuine issue of fact as to standing, but it cites no law pertaining to standing and develops no argument as to how the concept of standing relates to this appeal.

For all of these reasons, I reject Smashh Tyme’s arguments and affirm the circuit court’s order dismissing Smashh Tyme’s complaint.

IT IS ORDERED that the circuit court order is summarily 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