



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](http://www.wicourts.gov)

**DISTRICT IV**

September 6, 2024

To:

Hon. John M. Wood  
Circuit Court Judge  
Electronic Notice

Waldemar H. Klimczyk  
Electronic Notice

Amanda Nelson  
Clerk of Circuit Court  
Rock County Courthouse  
Electronic Notice

Ryan Joseph Truesdale  
Electronic Notice

Timothy Lee Stewart  
Electronic Notice

Jasmyne Mariah Baynard  
Electronic Notice

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

---

2022AP1892	City of Janesville v. Timothy Lee Stewart (L.C. # 2022FO821)
2022AP1893	City of Janesville v. Timothy Lee Stewart (L.C. # 2022FO402)
2022AP1896	City of Janesville v. Timothy Lee Stewart (L.C. # 2021FO2133)
2022AP1897	City of Janesville v. Timothy Lee Stewart (L.C. # 2021FO2037)
2022AP1898	City of Janesville v. Timothy Lee Stewart (L.C. # 2021FO2035)
2022AP1899	City of Janesville v. Timothy Lee Stewart (L.C. # 2021FO2034)

Before Nashold, J.<sup>1</sup>

Timothy Lee Stewart appeals circuit court orders in these consolidated cases. Based on my review of the briefs and record, I conclude that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. I summarily affirm the order in appeal No. 2022AP1892 and dismiss the remainder of the appeals.

---

<sup>1</sup> These appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2)(b) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

On this court's own motion, the appeals were consolidated for briefing and disposition by an order dated May 9, 2023. *See* WIS. STAT. RULE 809.10(3).

This opinion and order concerns consolidated appeals of six municipal forfeiture cases. In a May 9, 2023 order, this court previously addressed jurisdiction in these matters, concluding that jurisdiction exists with respect to appeal No. 2022AP1892, but ordering the parties to brief whether jurisdiction exists with respect to the remaining five appeals. Having received the parties' briefs, I address these cases in turn.

**Appeal No. 2022AP1892**

I begin with appeal No. 2022AP1892, for Rock County Circuit Court case No. 2022FO821, over which this court has previously determined that it has jurisdiction. On May 20, 2022, a citation was issued to Stewart for violation of Rock County Ordinance 24-443, Disturbing the Peace/Unnecessary Noise. The citation required Stewart to appear on June 28, 2022, at 8:00 a.m. at the Rock County Circuit Court. Stewart failed to appear at the June 28 hearing and the court minutes reflect that the court commissioner issued a default judgment against him on that same date, with a written default judgment entered on June 29, 2022.

On August 4, 2022, Stewart moved to reopen the default judgment. The circuit court denied that motion at a hearing on September 15, 2022. *See* WIS. STAT. § 808.03(1)(d) (providing that in municipal ordinance violation cases, an appeal may be taken from docket entries of the circuit court's disposition of the case). On November 3, 2022, Stewart filed a timely notice of appeal from the order denying his motion to reopen.

On appeal, the City of Janesville argues, among other things, that the circuit court properly denied Stewart’s motion to reopen because the motion was untimely pursuant to WIS. STAT. § 799.29(1)(b), which states, “In ordinance violation cases, the notice of motion must be made within 20 days after entry of judgment.” Here, default judgment against Stewart was issued on the date of the scheduled hearing, June 28, 2022, and a written judgment was entered on June 29, 2022. Using the later date of June 29, the City argues that 20 days from that date is July 19, 2022; that Stewart’s August 4, 2022 motion to reopen was thus filed 16 days late, and that the court therefore properly denied Stewart’s motion.<sup>2</sup> Stewart does not respond to the City’s argument in his reply brief and I therefore deem this issue conceded. *See Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994) (we may treat as a concession a proposition asserted in a respondent’s brief and not disputed in the reply brief). Accordingly, I reject Stewart’s challenge to the court’s order denying his motion to reopen the default judgment.

**Appeal Nos. 2022AP1893, 2022AP1896, 2022AP1897, 2022AP1898, and 2022AP1899**

Next, I consider five appeals of municipal ordinance violation cases that were tried to the circuit court on July 12, 2022: 2022AP1893 (2022FO402), 2022AP1896 (2021FO2133), 2022AP1897 (2021FO2037), 2022AP1898 (2021FO2035), and 2022AP1899 (2021FO2034). In an order dated May 9, 2023, this court explained the following:

---

<sup>2</sup> The May 9, 2023 order states that default judgment was entered against Stewart on June 28, 2022. *See* WIS. STAT. § 808.03(1)(d). Using the earlier date of June 28 would mean only that Stewart’s motion to reopen was 17 days late rather than 16 days late.

In each [of these cases], the circuit court entered judgment against Stewart on the record at the conclusion of the court trial. Docket entries reflect that in each case, Stewart filed a motion for reconsideration on August 2, 2022, but none of the appellate records for these five appeals include that motion. In three of the cases, Stewart also filed a motion to dismiss. The circuit court held a hearing on the post-judgment motions on September 15, 2022, and denied Stewart's motions for relief. Stewart filed a notice of appeal in each case on November 3, 2022.

With respect to each of these five appeals, the notice of appeal is not timely as to the original judgment because the notice of appeal was not filed within ninety days. *See* WIS. STAT. § 808.04(1) (requiring a notice of appeal to be filed within ninety days if a notice of entry of judgment is not filed). While this court lacks jurisdiction over appeals from the judgments entered on July 12, 2022, this court may have jurisdiction to review the circuit court's September 15, 2022 decision denying Stewart's motions for reconsideration. The notices of appeal were filed within ninety days of that decision. However, an appeal cannot be taken from an order denying a motion for reconsideration that presents the same issues as those determined in the order or judgment sought to be reconsidered. *See Silvertown Enters., Inc. v. General Cas. Co.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). The concern is that a motion for reconsideration not be used to extend the time to appeal from a judgment or order when that time has expired. *Id.*; *see also Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 24-26, 197 N.W.2d 752 (1972). **I direct the parties to address as the first issue in their appellate briefs whether this court has jurisdiction to review the September 15, 2022 decision.**

(Emphasis added.) The City argues that, contrary to this court's May 9 order, Stewart fails to address the jurisdictional issue in his brief-in-chief, much less point to any new arguments made in his motions for reconsideration that he did not make in his original motions. Moreover, I note that, despite this contention by the City in its respondent's brief, Stewart again fails to address the jurisdictional issue in his reply brief. In light of this failure, and because I do not readily discern any new arguments in Stewart's motions for reconsideration, I conclude that this court

lacks jurisdiction to consider these five cases, *see Silvertown*, 143 Wis. 2d at 665, and therefore dismiss these five appeals.

**The City’s Motion for Attorney Fees and Costs**

The City has filed a motion for attorney fees and costs for a frivolous appeal under WIS. STAT. § 825.09(3), arguing that Stewart’s appeal is not reasonably based upon law or fact, and is being used to harass the City of Janesville court system and police department, as well as the circuit court.

Although I have affirmed the circuit court’s order in one appeal and have dismissed the other five appeals on jurisdictional grounds, I cannot conclude that Stewart’s pro se appeals are entirely frivolous under WIS. STAT. RULE 809.25(3), *see Howell v. Denomie*, 2005 WI 81, ¶9, 282 Wis. 2d 130, 698 N.W.2d 621 (providing that an appeal is not frivolous under RULE 809.25(3) unless the entire appeal is frivolous), nor can I conclude that Stewart’s arguments were advanced solely to harass. Accordingly, I deny the City’s request for fees and costs under RULE 809.25(3).

Therefore,

IT IS ORDERED that the order in appeal No. 2022AP1892 is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

Nos. 2022AP1892  
2022AP1893  
2022AP1896  
2022AP1897  
2022AP1898  
2022AP1899

IT IS FURTHER ORDERED that appeal Nos. 2022AP1893, 2022AP1896, 2022AP1897, 2022AP1898, and 2022AP1899 are dismissed.

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

---

*Samuel A. Christensen*  
*Clerk of Court of Appeals*