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DISTRICT III

February 4, 2025

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

2023AP1501

Estate of Bryden Glazner v. Robert A. Glazner
(L. C. No. 2020CV385)

Before Stark, P.J., Hruz and Gill, 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).

Lynn Koshalek, both individually and as the special administrator of the Estate of Bryden Glazner,¹ appeals a circuit court order denying a motion for reconsideration of the court's

¹ We refer to Lynn Koshalek and the Estate of Bryden Glazner, collectively, as the Estate. Where appropriate, we refer to Lynn Koshalek, individually, as Koshalek. Because several individuals relevant to this appeal share or shared the surname "Glazner," including Bryden, we refer to those individuals using their first names.

previous order granting Auto-Owners Insurance Company’s motion for summary and declaratory judgment. 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).² We summarily affirm the order.

This appeal stems from a lawsuit filed by the Estate against Robert Glazner and his parents—Linda and Raymond Glazner. Auto-Owners moved to intervene in the action, bifurcate the coverage litigation from the merits of the litigation, and stay the merits litigation until the coverage issues were adjudicated. The circuit court granted the motion and, ultimately, issued an order granting Auto-Owners’ motion for summary and declaratory judgment. The court concluded, as relevant here, that Bryden was an “insured” under a homeowner’s insurance policy issued to Linda and Raymond and, therefore, an exclusion to coverage in the policy applied to him. The court also dismissed Auto-Owners from the lawsuit. The Estate appealed that order, and we affirmed the order in *Estate of Glazner v. Glazner*, No. 2023AP277, unpublished slip. op. ¶1 (WI App. Feb. 4, 2025), agreeing that Bryden was an “insured” under the exclusion to coverage contained in the policy.

On the same day that the Estate filed its notice of appeal from the circuit court’s order, it filed a motion for reconsideration in the circuit court. In support thereof, the Estate cited *Dostal v. Strand*, 2023 WI 6, 405 Wis. 2d 572, 984 N.W.2d 382, arguing, as pertinent here, that there remained genuine issues of material fact regarding the application of the exclusion in the policy,

² All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

such that summary judgment was inappropriate.³ The court denied the Estate’s motion for reconsideration, concluding that *Dostal* had no bearing on the issues presented in Auto-Owners’ motion for summary and declaratory judgment. In particular, the court concluded that “nothing in the *Dostal* decision” required it to “change its determination concerning” the application of the exclusion to the Estate’s claims. The court stated that it remained “satisfied that, in this case, no genuine dispute of fact exist[ed],” and the exclusion barred coverage. The Estate appeals that decision.

“To prevail on a motion for reconsideration, the movant must present either newly discovered evidence or establish a manifest error of law or fact.” *Koepsell’s Olde Popcorn Wagons, Inc. v. Koepsell’s Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis. 2d 397, 685 N.W.2d 853. We review a circuit court’s decision on a motion for reconsideration under the erroneous exercise of discretion standard. *Id.*, ¶6. “An erroneous exercise of discretion occurs when the circuit court fails to exercise discretion, the facts fail to support the court’s decision or the circuit court applies the wrong legal standard.” *Associated Bank N.A. v. Collier*, 2014 WI 62, ¶22, 355 Wis. 2d 343, 852 N.W.2d 443.

In *Koshalek*, we concluded that *Dostal* did not create any new law surrounding the interpretation of the insurance policy, contrary to the Estate’s argument. *Koshalek*,

³ The Estate also argued that the circuit court made other errors in its decision granting Auto-Owners’ motion for summary and declaratory judgment. Because we conclude that *Dostal v. Strand*, 2023 WI 6, 405 Wis. 2d 572, 984 N.W.2d 382, did not affect Auto-Owners’ motion for summary and declaratory judgment—i.e., the exclusion precludes coverage and the court properly denied the Estate’s motion for reconsideration—and because that issue is dispositive, we need not reach the other issues the Estate raised in this appeal as those issues relate to the court’s order denying its motion for reconsideration. See *Patrick Fur Farm, Inc. v. United Vaccines, Inc.*, 2005 WI App 190, ¶8 n.1, 286 Wis. 2d 774, 703 N.W.2d 707.

No. 2023AP277, ¶¶11-17. We stated that “nothing in *Dostal*, or any other case, requires a factual inquiry into whether Bryden’s ‘primary’ residence was with Robert or Koshalek.” *Koshalek*, No. 2023AP277, ¶15. Because *Dostal* had no bearing on Auto-Owners’ motion for summary and declaratory judgment, the circuit court applied the correct legal standard and did not erroneously exercise its discretion by denying the Estate’s motion for reconsideration. See *Koepsell’s Olde Popcorn Wagons*, 275 Wis. 2d 397, ¶44.

Therefore,

IT IS ORDERED that the order is summarily affirmed. 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