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**WISCONSIN COURT OF APPEALS**

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**DISTRICT II**

October 9, 2013

To:

Hon. Emily S. Mueller  
Circuit Court Judge  
Racine County Courthouse  
730 Wisconsin Avenue  
Racine, WI 53403

Rose Lee  
Clerk of Circuit Court  
Racine County Courthouse  
730 Wisconsin Avenue  
Racine, WI 53403

Carol A. Miller  
4868 W. Devinshire Dr.  
Franklin, WI 53132

Thomas N. Simons  
8125 E. Red Pine Cir.  
Racine, WI 53406

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

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2012AP1995

In re the marriage of: Carol A. Miller v. Thomas N. Simons  
(L.C. # 1999FA725)

Before Brown, C.J., Neubauer, P.J., and Gundrum, J.

Thomas N. Simons appeals from a postdivorce order dealing with the issue of variable expenses. 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 (2011-12).<sup>1</sup> We affirm the order of the circuit court.

Simons and Carol A. Miller were divorced in May 2000. Pursuant to a subsequent circuit court order, they were required to equally share all variable expenses for their three minor children, Leah, Joseph, and Nathan.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version.

In September 2011, Simons filed a motion which sought, among other things, reimbursement of variable expenses he incurred on behalf of Joseph and Nathan between the years of 2008 through 2011. Simons requested \$3938, the majority of which was related to Nathan's baseball activities. Following a court trial on the matter, the circuit court awarded Simons only \$200 for expenses relating to Joseph. This appeal follows.

On appeal, Simons contends that he is entitled to a greater amount in variable expenses than the circuit court awarded.<sup>2</sup> We will uphold a circuit court's decision regarding variable expenses unless we determine that discretion was not exercised or there was no reasonable basis for the court's decision. See *Rumpff v. Rumpff*, 2004 WI App 197, ¶16, 276 Wis. 2d 606, 688 N.W.2d 699.

Here, the circuit court found that Simons had improperly waited for several years before seeking reimbursement of variable expenses. The court also found that the majority of expenses related to an activity (*i.e.*, Nathan's baseball) that Miller had said she could not afford to support. Finally, the court noted that Simons had not reimbursed Miller for comparable expenses she had incurred relating to the children's education at a private school. In light of these determinations, which are supported by the record, we cannot say that discretion was not exercised or there was no reasonable basis for the court's decision.

Upon the foregoing reasons,

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<sup>2</sup> Simons also appears to suggest that the circuit court was biased against him due to a verbal altercation he had with one of the court's employees. Because this suggestion is underdeveloped, we will not consider it. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to  
WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*