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DISTRICT IV

January 29, 2014

To:

Hon. Juan B. Colas
Circuit Court Judge
215 South Hamilton, Br.10, Rm. 7103
Madison, WI 53703

Greg Griswold
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Carlo Esqueda
Clerk of Circuit Court
Room 1000
215 South Hamilton
Madison, WI 53703

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

2012AP1903

Greg Griswold v. Laura Wierzbicki (L.C. # 2009CV870)

Before Lundsten, Higginbotham and Sherman, JJ.

Greg Griswold, pro se, appeals an order denying his motion for reconsideration of the circuit court's judgment in Griswold's action for unjust enrichment and promissory estoppel against Laura Wierzbicki and Wierzbicki's counterclaim for slander of title. 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).¹ We summarily affirm.

On July 12, 2011, the circuit court issued its findings of fact, conclusions of law, and judgment in this case. The circuit court's decision adopted findings by an advisory jury, and resolved all issues in favor of Wierzbicki. Griswold filed two motions for reconsideration,

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

arguing errors of fact and law. The circuit court denied reconsideration. On July 9, 2012, Griswold filed a third motion for reconsideration, this time including an argument of newly discovered evidence. The court again denied reconsideration.

Griswold contends that the circuit court erred by denying his motion for reconsideration without a hearing. Griswold argues that his most recent motion for reconsideration established his right to relief from the judgment under WIS. STAT. § 806.07. In support, Griswold cites the settlement agreements between Griswold and Wierzbicki, dated March 25, 2012, and April 15, 2012, which Griswold attached to his motion for reconsideration, and Griswold argues that those agreements establish that the court's original decision was unjust.

“[A]n order entered on a motion to modify or vacate a judgment or order is not appealable where ... the only issues raised by the motion were disposed of by the original judgment or order.” *Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 25, 197 N.W.2d 752 (1972). A motion for reconsideration “must present issues other than those determined by the order or judgment for which review is requested in order to appeal from the order entered on the motion for reconsideration.” *Id.* at 26. We therefore compare the issues raised in the July 2012 motion for reconsideration with the issues disposed of in the July 2011 judgment. *See Harris v. Reivitz*, 142 Wis. 2d 82, 87, 417 N.W.2d 50 (Ct. App. 1987).

Here, the only issue raised in Griswold's motion for reconsideration that was not disposed of by the original judgment is Griswold's argument that the subsequent settlement agreements between Griswold and Wierzbicki entitle Griswold to relief from the judgment. Accordingly, the only issue within the scope of this appeal is whether the court erroneously exercised its discretion by rejecting that argument. *See Koepsell's Olde Popcorn Wagons, Inc.*

v. Koepsell's Festival Popcorn Wagons, Ltd., 2004 WI App 129, ¶6, 275 Wis. 2d 397, 685 N.W.2d 853.

The circuit court determined that the settlement agreements were not newly discovered evidence in that those agreements were not created until after trial, and that the facts set forth in the agreements both were known by Griswold before trial and were presented by him at trial. *See* WIS. STAT. §§ 806.07(1)(b) and 805.15(3). Additionally, the court determined that, if Griswold was attempting to offer proof of recantation, the evidence failed because it lacked corroboration. *See Dunlavy v. Dairyland Mut. Ins. Co.*, 21 Wis. 2d 105, 114, 124 N.W.2d 73 (1963).

Griswold has failed to develop a coherent argument that the circuit court erroneously exercised its discretion in denying reconsideration on these grounds. Additionally, Griswold has not developed a coherent argument as to why he is entitled to a motion hearing, when nothing in the motion entitled Griswold to relief.

To the extent Griswold raises other arguments in his brief that are within the scope of our jurisdiction over this appeal, those arguments are insufficiently developed, and we do not address them further. *See M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988).

Therefore,

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

Diane M. Fremgen
Clerk of Court of Appeals