



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

DISTRICT IV

October 10, 2014

To:

Hon. Mark L. Goodman
Circuit Court Judge
112 S Court St, Branch II
Sparta, WI 54656

Andrew C. Kaftan
Corporation Counsel
112 S. Court St. #103
Sparta, WI 54656-1772

Shirley Chapiewsky
Clerk of Circuit Court
Monroe County Courthouse
112 South Court Street, Room 203
Sparta, WI 54656-1765

Paulette A. Klimpke
1522 South Water Street
Sparta, WI 54656

Leonard J. La Roche
828 Dekalb St.
Wausau, WI 54403

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

2013AP2630

Paulette A. Klimpke v. Leonard J. La Roche (L.C. # 1994FA258)

Before Blanchard, P.J., Lundsten and Kloppenburg, JJ.

Leonard La Roche, pro se, appeals a circuit court order affirming an administrative levy to enforce a child support lien against a retirement account titled in La Roche's name. 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.

By financial institution notice dated June 19, 2013, the Monroe County Child Support Agency initiated an administrative levy against La Roche's retirement account. The Monroe County Child Support Agency sent La Roche a notice of the levy dated June 20, 2013. By letter

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

dated July 14, 2013, La Roche requested a hearing and stated that he was willing to discuss an alternative payment plan. Following a hearing and letter briefs, the circuit court entered an order affirming the administrative levy.

La Roche argues first that the administrative levy was precluded by his compliance with an “alternative payment plan” as defined by the administrative code. We are not persuaded.²

WISCONSIN STAT. § 49.854 provides a mechanism for the Department of Children and Families (DCF) to establish and enforce liens against property to satisfy delinquent child support payments. A person subject to a child support lien may avoid enforcement of the lien by entering an alternative payment plan according to rules promulgated by DCF. Section 49.854(13)(b). So long as the person remains in compliance with the alternative payment plan, “the department shall suspend all actions to enforce a lien.” *Id.* The rules promulgated by DCF define “alternative payment plan” as “a negotiated agreement between a child support agency and a payer, or an order set by the court, which establishes terms for the payment of the arrearage debt.” WIS. ADMIN. CODE § DCF 152.03(4) (July 2014).

It appears that La Roche is relying on a June 2007 contempt order as establishing an alternative payment plan.³ However, La Roche has not developed an argument—either in the

² The Monroe County Child Support Agency argues that La Roche has raised this and other issues for the first time on appeal, and that we should therefore not consider them. *See Shadley v. Lloyds of London*, 2009 WI App 165, ¶25, 322 Wis. 2d 189, 776 N.W.2d 838 (“It is well-established law in Wisconsin that those issues not presented to the trial court will not be considered for the first time at the appellate level.”). In reply, La Roche argues that he has preserved his issues for review, pointing to statements he made in a motion to the circuit court, at the hearing, and in his letter brief. In any event, we reject La Roche’s arguments on appeal as either insufficiently developed, deficient on the merits, or both. Accordingly, we do not resolve whether La Roche forfeited those arguments by failing to properly raise them in the circuit court, or to give them sufficient prominence.

circuit court or this court—as to why the contempt order, which established conditions for La Roche to purge the contempt, would qualify as an “alternative payment plan.” Accordingly, we reject La Roche’s argument as insufficiently developed. *See State v. Pettit*, 171 Wis. 2d 627, 646–47, 492 N.W.2d 633 (Ct. App. 1992) (we do not address insufficiently developed arguments). Moreover, the contempt order, on its face, does not appear to establish terms for payment of La Roche’s debt. Rather, the order found La Roche in contempt for failing to comply with a court order to make monthly payments of \$1,043 towards his child support arrears, but allowed La Roche to purge the contempt by making monthly payments of \$385 for one year. The order did not modify the previous order for La Roche to make payments of \$1,043 per month toward his arrears.⁴ We therefore reject La Roche’s argument on the merits as well.

Next, La Roche argues that the Monroe County Child Support Agency acted unreasonably by refusing to negotiate an alternative payment plan in lieu of an administrative levy. La Roche contends that he requested to negotiate an alternative payment plan with the Monroe County Child Support Agency, and that the agency failed to respond. However, La Roche does not dispute that he did not make a timely request to negotiate an alternative payment plan. *See* WIS. ADMIN. CODE § DCF 152.11(2)(b) (“A payer may submit a written request to the child support agency to negotiate an alternative payment plan within 10 business days after the date of notice ...”). Rather, La Roche asserts that it was impossible for him to

³ While La Roche does not cite or describe the order he believes established an alternative payment plan, he states the alternative payment plan was established by court order in 2007, with payments beginning in July 2007. The only order from 2007 that we have identified in the record is the June 2007 contempt order, which ordered payments to begin in July 2007.

⁴ It appears that the \$385 payments are deducted automatically from La Roche’s social security payments, and that those deductions have continued beyond the one-year period ordered in the 2007 contempt order. Neither the record nor the parties’ briefs clarify the process by which that has occurred.

respond within ten business days because he was out of town when the notice was sent and he did not read the notice until after the time to request an alternative payment plan had passed. However, La Roche fails to develop a legal argument with citation to relevant authority that the circuit court erred by affirming the administrative levy despite La Roche's untimely request to negotiate an alternative payment plan. We will not abandon our neutrality to develop that argument for him. See *Industrial Risk Insurers v. American Eng'g Testing, Inc.*, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82.

La Roche also argues that the circuit court erred by denying La Roche's motion to place the child support funds in a trust for his children under WIS. STAT. § 767.511(2). However, as the circuit court explained, § 767.511(2) plainly allows a court to set aside child support for the protection of *minor* children. Here, it is undisputed that the La Roche children were all adults when La Roche moved for the trust. Accordingly, § 767.511(2) is not an available option in this case.⁵

La Roche also contends that: (1) the circuit court erred by failing to consider the tax consequences of the administrative levy and La Roche's medical expenses; (2) the child support agency was acting in the best interest of La Roche's ex-wife, Paulette Klimpke, rather than in the best interest of the children; and (3) Klimpke made untrue statements to the circuit court during the hearing, specifically that La Roche never had any employment and never paid taxes. However, La Roche does not develop any legal arguments, with citation to appropriate legal authority, relating his assertions to a claim that the circuit court erred by enforcing the

⁵ Because the statute plainly does not apply, we do not reach La Roche's other arguments regarding his motion for a trust in favor of the children.

administrative levy.⁶ Accordingly, we will not consider these arguments further. See *Industrial Risk Insurers*, 318 Wis. 2d 148, ¶25.

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

⁶ La Roche cites to WIS. STAT. § 767.511(1m)(b) and (h) as requiring the circuit court to consider the financial resources of the parties and tax consequences to the parties. Section 767.511(1m), however, applies when a court deviates from the child support percentage standard. La Roche does not explain why that statute would apply when a circuit court determines whether a child support lien is enforceable by administrative levy under WIS. STAT. § 49.854.