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**DISTRICT IV**

June 15, 2015

To:

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

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Ronald Keip  
1675 Cumberland Road  
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You are hereby notified that the Court has entered the following opinion and order:

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2014AP690

In re the estate of Rueben E. Keip: Ronald Keip v. Estate of  
Rueben Keip and Richard Keip, Special Administrator  
(L.C. # 2009PR466)

Before Higginbotham, Sherman, and Kloppenburg, JJ.

Ronald Keip, pro se, appeals a circuit court judgment and order entered against Ronald and in favor of his father's estate in the amount of \$81,249.23. 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 (2013-14).<sup>1</sup> We summarily affirm.

Rueben Keip, Ronald Keip's father, died on June 16, 2009, at the age of 90. Several years before his death, Rueben appointed Ronald as his power of attorney. After Rueben's death, Ronald was appointed personal representative of the estate. Richard Keip, Rueben's other

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

son, filed a petition for special administration and a petition for removal of Ronald as personal representative, alleging that Ronald had taken assets from the estate. Richard believed that Ronald had not accounted for all of the estate's assets in the inventory he had filed. This belief was based upon Richard having observed that there were questionable withdrawals of cash from Rueben's account shortly before he died. After a hearing, the circuit court appointed Richard as special administrator of the estate.

The estate then filed a complaint against Ronald, alleging breach of fiduciary duty and conversion, and demanding an accounting and recovery of estate assets. The estate filed a motion for partial summary judgment, seeking judgment on the conversion claim and requesting entry of a money judgment against Ronald. Ronald filed a response brief objecting to summary judgment, arguing that he did not convert any assets but, rather, that his father had hired him to be his caretaker. Ronald asserted that the money he had withdrawn was money he was entitled to under the caretaker agreement with his father. Ronald also submitted to the circuit court a binder containing more than 600 pages of documentation that he argued supported his position. The estate then filed a rebuttal brief.

The circuit court granted the estate's motion for partial summary judgment, reasoning that Ronald did not submit any rebuttal evidence in admissible form. The court noted that the brief Ronald filed was unsigned and that he had not supported the documents in the binder by affidavit or any form of authentication and that, thus, the court could not consider them as evidence. The court also noted that, even if it could allow the binder as evidence, Ronald had failed to direct the court to any specific document or documents within the binder that would create a genuine factual dispute. The estate then moved to voluntarily dismiss the remaining

claims. The court entered an order of dismissal and judgment against Ronald in the amount of \$81,249.23, and this appeal follows.

This court reviews summary judgment decisions *de novo*, applying the same methodology and legal standard employed by the circuit court. *Palisades Collection LLC v. Kalal*, 2010 WI App 38, ¶9, 324 Wis. 2d 180, 781 N.W.2d 503. The legal standard is whether there are any material facts in dispute that entitle the opposing party to a trial. *Id.*; WIS. STAT. § 802.08(2).

In his appellant's brief, Ronald fails to identify any specific, disputed material fact and, instead, relies on conclusory assertions. He asserts, as a general matter, that the bank statements and receipts contained in the binder he submitted to the circuit court will prove that he did not misappropriate any funds. However, Ronald fails to direct us to any particular documents or explain how they rebut the estate's summary judgment arguments.

In his reply brief, Ronald includes what appears to be an itemized list of expenses from his father's final days. However, the list does not appear in the record and, therefore, is outside the scope of our review on appeal. *See Kushman v. State ex rel. Panzer*, 240 Wis. 134, 140, 2 N.W.2d 862 (1942) ("We can only consider the record upon which the circuit judge made his decision."). Even if we were able to consider the itemized list, the list still fails to reference specific documentation in the binder to support the itemized expenses. The list does not include dates, check reference numbers, or any other information that might put the itemized expenses in context. In sum, Ronald has failed to point out anything in the record that would establish the existence of a genuine issue of material fact.

Ronald also argues that the circuit court did not “explain” to him “how he should have presented this evidence[.]” In response to this argument, we note that, while we make some allowances for the failings of parties who, as here, are not represented by counsel, “[w]e cannot serve as both advocate and judge,” *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992), and we will not scour the record to develop viable, fact-supported legal theories on the appellant’s behalf. *See State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999).

IT IS ORDERED that the judgment and order are summarily affirmed under WIS. STAT. RULE 809.21(1).

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