



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 II/IV

July 13, 2015

To:

Hon. Timothy M. Van Akkeren
Circuit Court Judge
Sheboygan County Courthouse
615 N. 6th Street
Sheboygan, WI 53081

Melody Lorge
Clerk of Circuit Court
Sheboygan County Courthouse
615 N. 6th Street
Sheboygan, WI 53081

Dwight D. Darrow
Darrow & Dietrich S.C.
P.O. Box 1001
Sheboygan, WI 53082-1001

Mary T. Searing
4741 E. 130th Ave.
Thornton, CO 80241

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

2014AP2332

In re the marriage of: Mary T. Searing f/k/a Mary T. Jetzer v.
Thomas G. Jetzer (L.C. # 2006FA9)

Before Higginbotham, Sherman and Kloppenburg, JJ.

Mary Searing, pro se, appeals a circuit court order modifying the terms of child support and maintenance between Searing and her former spouse, Thomas Jetzer. 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).¹ We summarily affirm.

Searing and Jetzer were divorced in 2006. On June 13, 2014, Jetzer filed a motion for the circuit court to review and modify child support and payment for travel expenses, maintenance offsets, and payment of health insurance for his and Searing's minor children. Searing wrote a

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

letter to the circuit court judge stating that she would not be attending the motion hearing nor would she be retaining an attorney to appear on her behalf. Jetzer attended the hearing on July 15, 2014, and testified at length regarding changes in circumstances since the last time he and Searing had been in court regarding child support and maintenance issues. After the hearing, the court entered an order modifying the terms of support and maintenance.

Searing now appeals. It is difficult to ascertain from Searing's brief whether she challenges the circuit court's factual findings, legal conclusions, or both, as she does not cite to the record or any legal authority. Jetzer contends that, because Searing did not present her arguments to the circuit court by participating in the motion hearing, she has forfeited the right to raise those arguments on appeal. We agree.

A party forfeits a legal argument by failing to preserve it before the circuit court and attempting to raise it for the first time on appeal, in a way that would "blindsided" the circuit court if it served as the basis for reversal. See *Townsend v. Massey*, 2011 WI App 160, ¶¶24–26, 338 Wis. 2d 114, 808 N.W.2d 155 (forfeiture rule aims to use judicial resources efficiently and treat opposing parties fairly); *State v. Rogers*, 196 Wis. 2d 817, 827, 539 N.W.2d 897 (Ct. App. 1995) (forfeiture rule requires parties to "make all of their arguments to the [circuit] court").

The record reflects that Searing had notice of the motion and motion hearing, as evidenced by her letter informing the court that she would not be attending the hearing. We conclude that, based on the record before us, it would improperly blindsided the circuit court to reverse on the bases that Searing now advances, since she did not raise them in the circuit court. Her arguments are thus forfeited.

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

Diane M. Fremgen
Clerk of Court of Appeals