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DISTRICT III

April 26, 2016

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

2015AP348-CR

State v. Debra L. DeAngeles (L. C. No. 2010CF166)

Before Stark, P.J., Hruz and Seidl, JJ.

Debra DeAngeles appeals a judgment of conviction for two felony counts of failure to pay child support. In the circuit court, DeAngeles based her request to withdraw her plea on the grounds that (1) her parental rights to the children had been terminated and thus she had no obligation to pay child support, and (2) she was the victim of some unspecified identity theft. The circuit court did not accept that her parental rights had been terminated, given that her own attorney “did not find that to be the case.” The court also found that the alleged identity theft was irrelevant to the nonsupport charge. Based upon our review of the briefs and record, we

conclude at conference that this case is appropriate for summary disposition, and we summarily affirm. *See* WIS. STAT. RULE 809.21 (2013-14).

On appeal, DeAngeles fails to raise either of those issues. She therefore has abandoned both issues and they will not be considered by this court. “Issues raised in the trial court, but not raised on appeal, [are] deemed abandoned.” *A.O. Smith Corp. v. Allstate Ins. Co.* 222 Wis. 2d 475, 491, 588 N.W. 2d 285 (Ct. App.1998).

Instead on appeal, DeAngeles now argues the court should have allowed her to withdraw her plea because (1) there was reason to believe she was experiencing delusions at the time her plea was entered, and (2) she had a complete defense to the charges (financial inability to pay support). However, as argued by the State, DeAngeles’s appeal is fatally flawed because, under settled law, she may not switch grounds on appeal. “It is a fundamental principle of appellate review that issues must be preserved at the circuit court.” *State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727.

At no time before or during her sentencing or through any postconviction motion did DeAngeles raise these newly argued grounds to withdraw her pleas. DeAngeles has therefore forfeited those alleged grounds on appeal. The forfeiture rule gives parties incentive to “apprise circuit courts of specific arguments in a timely fashion so that judicial resources are used efficiently and the process is fair to the opposing party.” *Townsend v. Massey*, 2011 WI App 160, ¶26, 338 Wis. 2d 114, 808 N.W.2d 155. This court will not address issues for the first time on appeal. *See State v. Van Camp*, 213 Wis. 2d 131, 144, 569 N.W.2d 577 (1997).

DeAngeles argues there should be no forfeiture here because, before being sentenced, she did argue generally for plea withdrawal. However, a party cannot avoid the forfeiture rule

simply because he or she raised a general issue in the circuit court. *Id.*, ¶21. Raising a general issue does not preserve all arguments that might somehow relate to that issue. *Id.*, ¶¶21, 27. Instead, the forfeiture rule focuses on whether particular arguments have been preserved. *Id.*, ¶25. Framing the rule in this way prevents circuit courts from being “blindsided” by appellate courts and gives circuit courts the ability to “correct any error with minimal disruption of the judicial process, eliminating the need for appeal.” *Id.*, ¶26 (quoting *State v. Ndina*, 2009 WI 21, ¶30, 315 Wis. 2d 653, 761 N.W.2d 612).

Finally, DeAngeles argues the forfeiture rule is one of “judicial administration” and whether to apply it is for this court’s discretion. See *State v. Kaczmariski* 2009 WI App 117, ¶7, 320 Wis. 2d 811, 772 N.W.2d 702. In this case, as a result, we conclude there is insufficient reason to ignore the forfeiture rule. Because DeAngeles failed to timely raise these new grounds for plea withdrawal with the circuit court, the record is insufficient for us to consider them.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed.

Diane M. Fremgen
Clerk of Court of Appeals