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DISTRICT IV

July 13, 2016

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

2015AP1520 Danielle Gourneau-Houle v. Buddy Davis (L.C. # 2014CV707)

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

William "Buddy" Davis and Nicole Musick appeal a civil judgment that awarded Danielle Gourneau-Houle and Jason Houle nearly $45,000 in damages, double damages, and costs for injuries that Davis's and Musick's dog, Lilly, caused to Gourneau-Houle and Gourneau-Houle's and Houle's dog, Hank. After reviewing the record, we conclude at

conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).[1] We affirm for the reasons discussed below.

The appellants raise numerous complaints in their statement of issues about the fairness of the challenged judgment, which was entered following a bench trial. Among other things, they challenge: (1) the circuit court's impartiality; (2) the circuit court's factual findings about Lilly's ownership, whether it was actually Hank who bit Gourneau-Houle, and the extent of Gourneau-Houle's injuries; and (3) the circuit court's determination that Gourneau-Houle was not contributorily negligent for intervening when Lilly attacked Hank. The argument portion of the appellants' brief fails, however, to set apart separate sections that correlate to their statement of issues, instead relying upon a series of poorly organized assertions to demand relief. Moreover, the appellants' claims for relief are conclusory and do not develop any coherent arguments applying relevant legal authority to the facts of record within any recognizable framework for analysis—such as setting forth the elements of the dog bite claim, the test for contributory negligence, or the test for judicial bias. *See generally* WIS. STAT. RULES 809.19(1)(d) and (e) (setting forth the requirements for briefs). While we will make some allowances for the failings of *pro se* briefs, "[w]e cannot serve as both advocate and judge," and will not scour the record to develop viable, fact-supported legal theories on the appellant's behalf. ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992); *see also* ***State v. Jackson***, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999).

[1] All reference to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Because the appellants have not presented any specific claims of error that are sufficiently developed for this court to address, we will limit our discussion to a broad overview of why the appellants have not established a right to relief from the judgment. Any arguments that we do not explicitly address are deemed denied. *See* ***Libertarian Party of Wisconsin v. State***, 199 Wis. 2d 790, 801, 546 N.W.2d 424 (1996) (an appellate court need not discuss arguments that lack "sufficient merit to warrant individual attention").

Broadly speaking, this appeal challenges the circuit court's findings of fact, which we uphold unless they are clearly erroneous. *See* WIS. STAT. § 805.17(2). Underlying all of the appellants' claims are assertions that the circuit court erred in judging the credibility of the witnesses and in weighing the evidence in the manner it did. However, because the circuit court is in the best position to observe witness demeanor and gauge the persuasiveness of testimony, it is the "ultimate arbiter" of credibility when acting as a fact-finder. We will defer to its resolution of discrepancies or disputes in the testimony and its determinations of what weight to give to particular testimony. ***Johnson v. Merta***, 95 Wis. 2d 141, 151-52, 289 N.W.2d 813 (1980); *see also* WIS. STAT. § 805.17(2) ("due regard shall be given to the opportunity of the [circuit] court to judge the credibility of witnesses"). This means that we will not overturn credibility determinations on appeal unless the testimony upon which they are based is inherently or patently incredible, or in conflict with the uniform course of nature or with fully established or conceded facts. ***Global Steel Prods. Corp. v. Ecklund Carriers, Inc.,*** 2002 WI App 91, ¶10, 253 Wis. 2d 588, 644 N.W.2d 269. In sum, the circuit court was entitled to credit the testimony of Gourneau-Houle, and her testimony was sufficient to support the verdict and award of damages against Davis and Musick.

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

Diane M. Fremgen
Clerk of Court of Appeals