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DISTRICT II

December 6, 2017

To:

Hon. Kent R. Hoffmann
Circuit Court Judge
Sheboygan County Courthouse
615 N 6th St
Sheboygan, WI 53081

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

Todd E. Basler
Wurtz, Roth, Basler & Brock SC
641 Riverfront Dr
Sheboygan, WI 53081

Jeffrey David Clark
1319B Cottage Dr.
Oostburg, WI 53070

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

2016AP2241

In re the marriage of: Patricia Karen Clark v. Jeffrey David Clark
(L.C. # 2015FA57)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Jeffrey David Clark appeals the denial of his petition for waiver of fees and costs under WIS. STAT. § 814.29 (2015-16).¹ 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. We summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

In appeal No. 2016AP1458, Jeffrey appealed an order entered in a divorce action. He moved the circuit court to waive the transcript costs for that appeal. The circuit court denied the petition, and Jeffrey commenced the present appeal. On November 21, 2016, Jeffrey filed a statement on transcript indicating that because the circuit court denied his petition, he made arrangements with the court reporter to serve and prepare the June 6, 2016 transcript. That transcript was indeed filed and is part of the record in appeal No. 2016AP1458.

Whether fees and costs for transcripts should be waived by the court is governed by WIS. STAT. § 814.29. A litigant is entitled to free transcripts on appeal of a civil case when the circuit court determines both that the litigant is indigent and that the appeal has arguable merit. *See State ex rel. Girouard v. Jackson Cty. Circuit Court*, 155 Wis. 2d 148, 159, 454 N.W.2d 792 (1990).

On appeal, Jeffrey's sole argument is that the circuit court should have waived the transcript costs because this court and the Federal Bankruptcy Court waived his filing fees.² We are not persuaded. This court applies its own standard in determining whether to grant a litigant permission to proceed without payment of the filing fee. Our fee waiver order clearly informed Jeffrey: "This order waives only the filing fees in the Court of Appeals. It is not a determination of indigency for any other purpose." Similarly, the circuit court was not bound by the bankruptcy court's order waiving its filing fee. Therefore,

² Jeffrey's argument consists of one sentence as follows: "The [circuit court's] decision contradicts the decisions and findings of both the Court of Appeals waiver of fees and the Federal Bankruptcy Court waiver of fees."

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals