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DISTRICT II

December 13, 2017

To:

Hon. Scott C. Woldt
Circuit Court Judge
Winnebago County Courthouse
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Mark S. Hazelwood
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You are hereby notified that the Court has entered the following opinion and order:

2017AP247

In re the marriage of: Carol L. Paulsen v. Mark S. Hazelwood
(L.C. #2014FA787)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

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).

Carol L. Paulsen appeals from an order modifying the property division portion of a judgment of divorce. She contends that the circuit court lacked authority to do so. The respondent, Mark S. Hazelwood, did not file a responsive brief. We conclude at conference that this case is appropriate for summary disposition. WIS. STAT. RULE 809.21 (2015-16).¹ Based on

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

Hazelwood's failure to file a responsive brief, we reverse the order of the circuit court and remand the matter for further proceedings consistent with this opinion.

Paulsen and Hazelwood were granted a judgment of divorce in February 2016. The judgment required, among other things, that Hazelwood pay Paulsen an equalizing payment of \$33,000 as part of the property division. That payment was secured by a mortgage lien against real estate awarded to Hazelwood. The judgment also reserved jurisdiction to divide the parties' personal property if they could not reach an agreement.

The parties did not reach an agreement as to the division of their personal property. Furthermore, Hazelwood failed to make the required equalizing payment. After multiple hearings, the circuit court entered an order effectively eliminating the required equalizing payment. The order stated that "each party gets what's in their possession without any interest by the other party." This appeal follows.

On appeal, Paulsen contends that the circuit court lacked authority to enter its order modifying the property division. She notes that, under the judgment of divorce, the court retained jurisdiction only to divide the parties' personal property if they could not reach an agreement. She further notes that under WIS. STAT. § 767.59(1c)(b) "[a] court may not revise or modify ... a judgment or order with respect to final division of property." Thus, she asks that the required equalizing payment be reinstated.

Hazelwood does not respond to Paulsen's arguments. See *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 108-09, 279 N.W.2d 493 (Ct. App. 1979) (unrefuted arguments are deemed conceded). On May 22, 2017, we informed him that his responsive brief was delinquent. On June 20, 2017, we warned that if he failed to file a responsive brief, we

could exercise our discretion and summarily reverse the circuit court provided that we determine that he had abandoned the appeal. *Raz v. Brown*, 2003 WI 29, ¶18, 260 Wis. 2d 614, 660 N.W.2d 647; *see also State ex rel. Blackdeer v. Township of Levis*, 176 Wis. 2d 252, 259-60, 500 N.W.2d 339 (Ct. App. 1993) (summary reversal is appropriate sanction for respondent's violation of briefing requirements). Despite this admonition, Hazelwood failed to file a responsive brief.

We decline to address the merits of the appeal under these circumstances. We conclude only that Hazelwood has abandoned the appeal and that summary reversal is appropriate. Accordingly, we reverse the order of the circuit court and remand the matter for further proceedings consistent with this opinion.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily reversed and the cause remanded for further proceedings consistent with this opinion, 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