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DISTRICT II

January 24, 2018

To:

Hon. Donald A. Poppy
Reserve Judge

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Clerk of Circuit Court
Sheboygan County Courthouse
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Sheboygan, WI 53081

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

2016AP1458

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 pro se from a judgment of divorce, asserting that the circuit court should have adjourned the trial to enable further discovery, and that the final property division was inequitable. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. § 809.21 (2015-16).¹ We affirm.

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

Patricia Karen Clark petitioned for divorce. In November 2015, the circuit court decided issues concerning the custody and placement of the parties' marital child. A property division trial was scheduled for June 6, 2016. Shortly before the scheduled trial date, Jeffrey moved to compel discovery and for an adjournment; Patricia objected. When asked to describe the discovery he sought, Jeffrey expressed concern about Patricia's severance package,² the marital home's value, and that Patricia might have failed to disclose bonuses she received in 2015.

The court asked Jeffrey why he did not hire an appraiser if he intended to dispute the marital home's value, and Jeffrey said he could not afford one.³ The circuit court ascertained and Jeffrey acknowledged that the parties had jointly prepared their 2015 tax return, which reflected not only Patricia's salary, but also her bonuses. Emphasizing that the parties had more debt than assets, that information about Patricia's assets and debts was contained in her financial submissions, and that Jeffrey was free to cross-examine Patricia at trial, the court denied the adjournment request. The trial proceeded and both parties testified and presented documentary evidence. Ultimately, the circuit court awarded Patricia the home, her vehicle, and her small pre-marital retirement accounts. Jeffrey was awarded his business and his vehicle. Patricia was made responsible for the home mortgage and her vehicle loan and Jeffrey was solely responsible for his large child support arrearage incurred in connection with a child from an earlier marriage.

² Due to her employer's relocation, Patricia lost her job in March 2016 and remained unemployed at the time of trial. Her severance package included payment of her salary until August 2016. Information concerning Patricia's severance package was provided to the court and to Jeffrey, was introduced as a trial exhibit, and is in the appellate record.

³ The parties agreed that Patricia would receive the marital home. She provided its assessed value on her financial disclosure paperwork.

The consumer debt was split equally between the parties. No maintenance was ordered and child support was held open.

Jeffrey first contends that the circuit court's refusal to adjourn the June 6, 2016 property division trial prevented Jeffrey's access to "critical evidence" and provided Patricia an unfair advantage by allowing her "complete access to all financial documents." We review the circuit court's decision to grant or deny a continuance for an erroneous exercise of discretion. *L.M.S. v. Atkinson*, 2006 WI App 116, ¶18, 294 Wis. 2d 553, 718 N.W.2d 118. At no point does Jeffrey's brief discuss the circuit court's decision in light of the applicable standard of review or explain how its decision to deny the continuance constitutes an erroneous exercise of discretion. Though Jeffrey disagrees with the circuit court's ruling, he has neither provided nor developed an applicable legal theory or supporting argument. We do not abandon our neutrality to develop a party's argument. See *State v. Gulrud*, 140 Wis. 2d 721, 730, 412 N.W.2d 139 (Ct. App. 1987).

Next, Jeffrey challenges the property division as inequitable, asserting without further explanation that the circuit court "failed to presume an equitable division" and that "an equitable property division would have been a payment of approximately \$65,000 to [Jeffrey]." Here again, Jeffrey fails to develop coherent arguments that apply relevant legal authority to the facts of record, and instead relies largely on conclusory assertions. "A party must do more than simply toss a bunch of concepts into the air with the hope that either the trial court or the opposing party will arrange them into viable and fact-supported legal theories." *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). Consequently, this court need not consider arguments that either are unsupported by adequate factual and legal citations or are otherwise undeveloped. See *Dieck v. Unified Sch. Dist. of Antigo*, 157 Wis. 2d 134, 148 n.9, 458 N.W.2d 565 (unsupported factual assertions); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492

N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments). While we make some allowances for pro se parties, “[w]e cannot serve as both advocate and judge,” *Pettit*, 171 Wis. 2d at 647, and will not scour the record to develop arguments for an appellant, *Jackson*, 229 Wis. 2d at 337. Jeffrey has failed to develop his arguments legally or to support them factually, and we affirm the circuit court on that basis. Therefore,

IT IS ORDERED that the judgment 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
Acting Clerk of Court of Appeals