



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

October 8, 2018

To:

Hon. James P. Daley
Circuit Court Judge
Rock County Courthouse
51 S. Main St.
Janesville, WI 53545

Jacki Gackstatter
Clerk of Circuit Court
Rock County Courthouse
51 S. Main St.
Janesville, WI 53545

Anne Christenson Murphy
Assistant Attorney General
P.O. Box 7857
Madison, WI 53707-7857

Gwanny J. Tjoa
Asst. District Attorney
51 S. Main St.
Janesville, WI 53545-3951

Timothy Lee Stewart, Sr. 273450
Kettle Moraine Correctional Inst.
P.O. Box 282
Plymouth, WI 53073-0282

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

2017AP1630-CR

State of Wisconsin v. Timothy Lee Stewart, Sr.
(L.C. # 2010CF1301)

Before Blanchard, Sherman and Kloppenburg, 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).

Timothy Stewart appeals an order denying his petition for positive adjustment time. 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 (2015-16).¹ We affirm.

We affirm for two reasons. First, Stewart’s brief is undeveloped. Stewart sets forth certain historical facts about his situation, and identifies a potentially unresolved legal question about the applicability of a certain statute to consecutive sentences, but he does not develop any legal argument for why a court should rule in his favor. Stewart concludes simply by saying that he “seeks guidance” from this court.

This court need not consider arguments that are unsupported by adequate legal citations or are otherwise undeveloped. *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). While we make some allowances for the failings of parties who, as here, are not represented by counsel, “[w]e cannot serve as both advocate and judge,” *Id.* at 647, and will not scour the record to develop viable, fact-supported legal theories on the appellant’s behalf. *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). Here, the appellant has failed to develop his arguments legally. Therefore, we affirm the circuit court on that basis.

The second reason to affirm is that Stewart has not provided us with a transcript of the circuit court’s decision. The court order states only that it denied Stewart’s motion for the reasons stated on the record. The court’s decision may have depended on findings of fact. When the transcript is not part of the record, we assume it supports every fact essential to the court’s decision. *Austin v. Ford Motor Co.*, 86 Wis. 2d 628, 641, 273 N.W.2d 233 (1979).

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

IT IS ORDERED that the order appealed is summarily affirmed under WIS. STAT. RULE 809.21.

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

Sheila T. Reiff
Clerk of Court of Appeals