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DISTRICT II

November 28, 2018

To:

Hon. Charles H. Constantine
Circuit Court Judge
Racine County Courthouse
730 Wisconsin Ave.
Racine, WI 53403

Bruce Fishbain
Register in Probate
Racine County Courthouse
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Racine, WI 53403

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

2018AP389

In re the estate of Harold A. and Lucille B. Meyer Revocable Trust:
Hannah Strelchenko v. Prairie Financial (L.C. #2015PR172)

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).

Hannah Strelchenko appeals pro se from an order approving Prairie Financial's schedule of distribution, as modified by the court. Strelchenko asserts the circuit court erred in deducting from her proportionate share of the trust fees incurred by Prairie Financial as a result of Strelchenko's Federal Deposit Insurance Corporation ("FDIC") complaint against it. 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 the order of the circuit court.

Strelchenko and Margaret Ann Meyer were designated as co-trustees of the Harold A. and Lucille B. Meyer Revocable Trust. Following a hearing on a probate petition, the Register in Probate issued the following order:

[B]ecause of the lack of cooperation that the Co-Trustees have shown in addressing their duties together, the Court hereby removes Co-Trustees, Hannah Strelchenko and Margaret Ann Meyer, and appoints Prairie Financial Group, a division of Waukesha State Bank, to serve as the third-party trustee pursuant to [WIS. STAT. §] 701.0706.

Strelchenko and two other trust beneficiaries subsequently sued Meyer for civil theft, conversion, and breach of fiduciary duty. While that case was pending, the Register in Probate issued the following order in this matter on January 5, 2017:

- (1) that the Trustee Fees of Prairie Financial Group in the amount of \$7,372.63 as shown on its invoice dated June 27, 2016 be immediately paid with the understanding that there could be offsets against future Trustee Fees if so ordered by the Court; and
- (2) that, as agreed by the parties, the Trustee's Legal Fees of \$11,802.98 shall remain unpaid pending the outcome of the Global Mediation involving this case and another related case on January 25, 2017; and
- (3) that a review hearing shall be conducted by a conference call to be initiated by Attorney Krier at 10:30 am on February 21, 2017. At that time the Court shall review the outcome of the Global Mediation and address whether it's necessary to require the filing of motion papers objecting to the payment of the Trustee's Legal Fees.

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

The civil suit was resolved at mediation on January 25, 2017, with a finalized settlement in May 2017.

On July 6, 2017, Strelchenko filed a complaint against Prairie Financial with the FDIC, complaining of Prairie Financial's conduct as trustee. Following Prairie Financial's response, the FDIC dismissed the complaint. Prairie Financial then sought to have the fees it incurred in responding to the FDIC complaint assessed against Strelchenko's share of the trust. Strelchenko objected to the request. A hearing was held, following which the circuit court found the testimony of Prairie Financial's president as to fees incurred to be credible and the fees requested to be reasonable. The court noted that the FDIC complaint "is something that had to be answered." The court determined that, pursuant to WIS. STAT. § 701.1004, attorney's fees and costs should be awarded against Strelchenko's share and entered an order to that effect.

Compensation for services and the award of attorney fees to a trustee are matters within the sound discretion of the circuit court. See *Joerres v. Koscielniak*, 13 Wis. 2d 242, 248, 108 N.W.2d 569 (1961) (compensation for services); *Trust of Rene von Schleinitz v. Maclay*, 2016 WI App 4, ¶36, 366 Wis. 2d 637, 874 N.W.2d 573 (2015) (attorney fees). We review discretionary decisions under the deferential erroneous exercise of discretion standard, *Olson v. Darlington Mut. Ins. Co.*, 2009 WI App 122, ¶5, 321 Wis. 2d 125, 772 N.W.2d 718, and we will uphold such decisions so long as the circuit court "examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach." *Wynhoff v. Vogt*, 2000 WI App 57, ¶13, 233 Wis. 2d 673, 608 N.W.2d 400 (citation omitted). On appeal, the appellant, here Strelchenko, bears the burden of convincing us the circuit court erred in its decision. *Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381.

Strelchenko’s appeal falls flat right out of the gate. She cannot prevail where she fails to cite to the record for support of any of the assertions she makes. *See Grothe v. Valley Coatings, Inc.*, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463 (refusing to consider a party’s argument when the party has failed to cite to parts of the record relied on). Furthermore, in her two paragraphs of “argument,” she fails to develop any argument for how the circuit court erroneously exercised its discretion in this case, a showing she needs to make to convince us the court erred. *See Clean Wis., Inc. v. PSC*, 2005 WI 93, ¶180 n.40, 282 Wis. 2d 250, 700 N.W.2d 768 (“We will not address undeveloped arguments.”). While we recognize that some latitude may be afforded to pro se appellants such as Strelchenko, pro se appellants nonetheless are required to abide by the same rules governing attorneys. *See Waushara Cty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). Furthermore, we will not abandon our neutrality to develop arguments for a party. *See Industrial Risk Insurers v. American Eng’g Testing, Inc.*, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* 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