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DISTRICT IV

January 4, 2019

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

2017AP1893	In re the petition for grandparental visitation in State v. Jason R. Royal: Cindy L. Stroede v. Jason R. Royal (L.C. # 2016FA133)
2017AP2056	Cindy L. Stroede v. Jason R. Royal (L.C. # 2016FA133)
2018AP137	In re the denial of transcripts in State v. Jason R. Royal: Cindy L. Stroede v. Jason R. Royal (L.C. # 2016FA133)

Before Lundsten, P.J., Sherman and Fitzpatrick, 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).

In these consolidated appeals, Cindy Stroede, pro se, appeals circuit court orders relating to her petition for visitation rights in a paternity action involving Stroede's greatgrandchild. Based upon our review of the briefs and record, we conclude at conference that these cases are

appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).[1] We reject Stroede's arguments and affirm.

The underlying case is a paternity acknowledgement action filed by the State of Wisconsin against Jason Royal, regarding placement and support of the nonmarital child Royal fathered with Stroede's granddaughter, Rhiannon Stroede. As part of this action, Stroede filed a petition for grandparent visitation rights. Royal moved to dismiss Stroede's petition on the ground that the circuit court lacked authority to grant Stroede visitation rights because WIS. STAT. § 767.43(3) only authorizes a court to grant reasonable visitation rights to the grandparents of a nonmarital child.[2] In contrast, Stroede is the child's greatgrandparent.

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

[2] WISCONSIN STAT. § 767.43(3), which is entitled "Special grandparent visitation provision," authorizes a court to:

> grant reasonable visitation rights, with respect to a child, to a grandparent of the child if the child's parents have notice of the hearing and the court determines all of the following:
>
> (a) The child is a nonmarital child whose parents have not subsequently married each other.
>
> (b) Except as provided in sub. (4), the paternity of the child has been determined under the laws of this state or another jurisdiction if the grandparent filing the petition is a parent of the child's father.
>
> (c) The child has not been adopted.
>
> (d) The grandparent has maintained a relationship with the child or has attempted to maintain a relationship with the child but has been prevented from doing so by a parent who has legal custody of the child.
>
> (e) The grandparent is not likely to act in a manner that is contrary to decisions that are made by a parent who has legal custody of the child and that are related to the child's physical, emotional, educational or spiritual welfare.

(continued)

The circuit court agreed with Royal that visitation rights under WIS. STAT. § 767.43(3) only extend to grandparents. The court concluded that Stroede lacked standing to petition for visitation and, therefore, entered an order dismissing the petition.

Stroede appeals this order in 2017AP1893. Stroede points out that greatgrandparents are authorized to petition for visitation rights for marital children. *See* WIS. STAT. § 767.43(1) (authorizing a court to grant "reasonable visitation rights" to a "grandparent, greatgrandparent, stepparent or person who has maintained a relationship similar to a parent-child relationship with the child"). However, WIS. STAT. § 767.43(2m) states that the "Special grandparent visitation provision" of sub. (3) applies instead of sub. (1) in certain cases. Accordingly, our supreme court has explained that sub. (1) only applies in cases involving "a child of a married or formerly married couple." *See* ***Meister v. Meister***, 2016 WI 22, ¶28, 367 Wis. 2d 447, 876 N.W.2d 746. We recently had an opportunity, in an unpublished case, to examine the distinctions between these two provisions, and we concluded that a circuit court lacks authority under § 767.43(3) to order visitation for a greatgrandparent of a nonmarital child. *See* ***In re JMH***, 2017 WI App 7, unpublished slip op. ¶¶17-19 (WI App Dec. 29, 2016).

Stroede makes a vague argument that this statutory distinction is discriminatory and violates the equal protection clause. The basis for Stroede's equal protection claim is not clear, because Stroede first contends that the scheme "discriminate[s] against non-married family members and third parties," but later argues that the scheme discriminates against nonmarital children. Even if the specifics of Stroede's equal protection claim were clear, Stroede does not

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(f) The visitation is in the best interest of the child.

support her argument with any references to legal authority. "[A] party has to adequately, and with some prominence, argue an issue in order for this court to decide it. It is insufficient to just state an issue on appeal without providing support for the position and providing legal authority supporting the position." ***A.O. Smith Corp. v. Allstate Ins. Cos***., 222 Wis. 2d 475, 492, 588 N.W.2d 285 (Ct. App. 1998). We therefore reject Stroede's equal protection claim as undeveloped.

Turning to Stroede's consolidated appeals in 2017AP2056 and 2018AP137, Stroede argues that the circuit court violated her "right to proceed and act as a pro se party." Stroede does not develop any argument regarding her pro se status. Our supreme court has explained that "[t]he right to self-representation is '[not] a license not to comply with relevant rules of procedural and substantive law.'" ***Waushara Cty. v. Graf***, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (quoted source omitted). Moreover, "[w]hile some leniency may be allowed, neither a [circuit] court nor a reviewing court has a duty to walk *pro se* litigants through the procedural requirements or to point them to the proper substantive law." ***Id***. We see no basis for concluding that the circuit court violated Stroede's rights as a pro se individual.

Stroede further argues that her rights were violated because she was not allowed to participate in the underlying proceedings. According to Stroede's timeline of events, Stroede's first appearance in this matter occurred when she filed her petition for visitation rights. Stroede filed this petition on the date of the final hearing at which the circuit court awarded primary placement to the child's father. By that point, the paternity acknowledgement action had already been underway for more than a year. Stroede's brief describes various attempts that Stroede made after this final hearing to request that the circuit court reconsider its placement order, take

testimony from additional witnesses (including experts) proposed by Stroede, substitute a different judge, and change venue. Stroede appears to believe that the circuit court did not properly address at least some of these attempts. However, we see no developed argument from Stroede regarding any of these issues. Specifically, Stroede does not identify any case law to support her argument that the circuit court erred, nor does Stroede provide adequate citations to the record so that we can evaluate her arguments. We may disregard her arguments for this reason alone. *See* ***State v. McMorris***, 2007 WI App 231, ¶30, 306 Wis. 2d 79, 742 N.W.2d 322 ("we may choose not to consider arguments unsupported by references to legal authority, arguments that do not reflect any legal reasoning, and arguments that lack proper citations to the record").

Another obvious problem with Stroede's arguments is that Stroede was not a party to the underlying action. As a non-party, Stroede appears to lack standing to pursue much of the relief that she requested from the court.[3] One possible exception that we can discern is Stroede's letter requesting a change of venue. The child's mother also moved for a change of venue, and the circuit court addressed these motions on the merits and denied them. A circuit court has discretion under WIS. STAT. § 801.52 to change venue "in the interest of justice or for the convenience of the parties." ***Sharp v. Sharp***, 185 Wis. 2d 416, 422, 518 N.W.2d 254 (Ct. App. 1994). We see no developed argument that the circuit court erroneously exercised its discretion when it denied Stroede's motion to change venue. "Our obligation to liberally construe a pro se

[3] For example, Stroede's appeal in 2017AP2056 sought to challenge the circuit court's order denying Rhiannon's motion to change legal custody and placement. Stroede argues that the circuit court's custody and placement decisions were not in the best interests of the child. Stroede fails to develop any argument that, as a non-party, she nonetheless has standing to appeal this order.

litigant's pleading assumes that the litigant has otherwise made a proper argument for relief … [and] does not extend to creating an issue and making an argument for the litigant." ***State ex rel. Harris v. Smith***, 220 Wis. 2d 158, 164–65, 582 N.W.2d 131 (Ct. App. 1998). We therefore affirm the circuit court's order denying Stroede's change of venue motion.

Finally, Stroede contends that the circuit court erroneously denied her request for a waiver of transcript costs. The circuit court initially denied her request because Stroede did not specify which transcripts she wanted or why. Stroede supplemented her request with additional information regarding her intentions for appeal. The circuit court granted Stroede's request for the transcript of the hearing on Stroede's motion for visitation. However, the court denied Stroede's requests for other transcripts because she was not a party to the underlying litigation.

A request for waiver of transcript costs is governed by our supreme court's decision in ***State ex rel. Girouard v. Circuit Ct. for Jackson Cty.***, 155 Wis. 2d 148, 159, 454 N.W.2d 792 (1990). In that case, our supreme court explained that "a meritless assertion by a putative appellant will not furnish a foundation for a judicially ordered waiver of fees." ***Id.*** Instead, "[t]he individual must be found to be indigent by the court, and the person must present a claim upon which relief can be granted." ***Id.*** Moreover, "'the claim [must be] arguably meritorious.'" ***Id.*** (quoted source omitted).

As we explained above, Stroede was not a party to the underlying litigation and lacks standing to appeal the circuit court's custody and placement decisions. We see no indication that Stroede has an arguably meritorious claim for an appeal of proceedings to which she was not a party. We therefore affirm the circuit court's order partly denying Stroede's request for transcripts.

We have attempted to discern and address the arguments in Stroede's briefs, but we need go no further. To the extent that Stroede is challenging any additional aspect of the circuit court proceedings, we reject these arguments as undeveloped or lacking any merit. *See* ***Dieck v. Unified School Dist. of Antigo***, 157 Wis. 2d 134, 148 n.9, 458 N.W.2d 565 (Ct. App. 1990) (we need not address arguments unsupported by record citations); ***Libertarian Party of Wisc. v. State***, 199 Wis. 2d 790, 801, 546 N.W.2d 424 (1996) ("any of the [appellant's] challenges not discussed with specificity can be deemed to lack sufficient merit to warrant individual attention").

Upon the foregoing reasons,

IT IS ORDERED that the orders are summarily affirmed pursuant to 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