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DISTRICT I

March 19, 2019

To:

Hon. Mary M. Kuhnmuench
Circuit Court Judge
Milwaukee County Courthouse
901 N. 9th St.
Milwaukee, WI 53233-1425

Michelle L. Velasquez
Civitas Law Group
2224 W. Kilbourn Ave.
Milwaukee, WI 53233

Petitioner

John Barrett
Clerk of Circuit Court
Room G-8
901 N. 9th Street
Milwaukee, WI 53233

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

2017AP1951

Petitioner v. Rhonda Kanekeo (L.C. # 2016FA6573)

Before Kessler, P.J., Brennan and Brash, 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).

Rhonda Kanekeo appeals from an order of the circuit court that imposed a four-year domestic abuse injunction against her. 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 (2017-18).¹ The order is summarily reversed as a sanction against Petitioner, *see* WIS. STAT. RULE 809.83(2), and the cause is remanded with directions to vacate the injunction.

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

This matter arises from Petitioner's allegations that on September 26, 2016, her sister, Kanekeo, struck her in the face and pulled on her scarf. A court commissioner entered a temporary restraining order, and Kanekeo sought *de novo* review by the circuit court. The circuit court heard testimony from Petitioner, Kanekeo, the parties' niece, and another sister. Based on the testimony, the circuit court found there were "reasonable grounds to believe" that Kanekeo had engaged in domestic abuse against Petitioner. *See* WIS. STAT. § 813.12(4)(a)3. The circuit court thus entered an injunction, expiring in October 2020, requiring Kanekeo to refrain from committing acts or threats of domestic violence against Petitioner, avoid Petitioner's residence or other location temporarily occupied by her, and avoid contacting her.

Kanekeo appeals, challenging the sufficiency of the evidence. Among other things, Kanekeo argues that the circuit court improperly considered the other sister's testimony as corroboration of Petitioner's and the niece's testimony because the other sister did not witness the alleged September 26 altercation between Kanekeo and Petitioner.

Kanekeo filed her appellant's brief on January 22, 2018. In an order dated March 14, 2018, we notified Petitioner that her respondent's brief was delinquent and, unless the brief was filed or an extension sought within five days, the appeal would be subject to summary disposition. We did not receive a response of any kind from Petitioner.

In an order dated April 18, 2018, we extended Petitioner's filing deadline on our own motion and cautioned that failure to file a respondent's brief would put the appeal at risk for summary reversal, as such failure tacitly concedes the circuit court erred. *See State ex rel. Blackdeer v. Township of Levis*, 176 Wis. 2d 252, 260, 500 N.W.2d 339 (Ct. App. 1993). We did not receive a response of any kind from Petitioner.

In an order dated April 29, 2018, we concluded that a responsive brief was “necessary to the resolution of this appeal.” Pursuant to the supreme court’s directive in *Raz v. Brown*, 2003 WI 29, ¶36, 260 Wis. 2d 614, 660 N.W.2d 647, we stated that failure to file the respondent’s brief constituted abandonment of the appeal, and we directed Petitioner to file her respondent’s brief within fifteen days or “this court will summarily reverse the judgment or order appealed from.” See *id.*; see also WIS. STAT. RULE 809.83(2). We did not receive a response of any kind from Petitioner and to date, no respondent’s brief has been filed.

Therefore,

IT IS ORDERED that the circuit court’s order appealed from is summarily reversed as a sanction for failure to file the respondent’s brief, and the matter is remanded to the circuit court with directions to vacate the injunction against Kanekeo.

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

Sheila T. Reiff
Clerk of Court of Appeals