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DISTRICT IV

May 30, 2019

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

2018AP1649

State of Wisconsin v. James W. Knipfer (L.C. # 1992CF91)

Before Lundsten, P.J., Blanchard, 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).

James W. Knipfer, pro se, appeals a circuit court order that denied Knipfer's motion to vacate his 1993 conviction and sentence. 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 We summarily affirm.

In 1993, Knipfer was convicted of two counts of first-degree intentional homicide and one count of armed burglary, following a jury trial, and was sentenced to two consecutive terms of life imprisonment, plus thirty years. In May 2004, Knipfer filed a motion for postconviction relief under WIS. STAT. § 974.06. The circuit court denied the motion, and this court affirmed on appeal. In September 2017, Knipfer filed a motion to vacate his 1993 conviction and sentence, which the court denied. On August 6, 2018, Knipfer filed another motion to vacate his 1993 conviction and sentence. The court denied the motion without a hearing.

Knipfer's appellant's brief contains numerous complaints about the State and the circuit court during trial and postconviction proceedings in this matter. Knipfer asserts, in conclusory fashion, that: (1) his arguments were never squarely addressed because the State submitted false information to the circuit court; and (2) this court should take original jurisdiction over this matter or certify it to the supreme court. The brief fails, however, to develop coherent arguments that apply relevant legal authority to the facts of record.

“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 are unsupported by adequate factual and legal citations or are otherwise undeveloped. *See State v. Pettit*, 171 Wis. 2d 627, 646-47,

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

492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments); *Dieck v. Unified Sch. Dist. of Antigo*, 157 Wis. 2d 134, 148 n.9, 458 N.W.2d 565 (Ct. App. 1990) (unsupported factual assertions). 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,” *Pettit*, 171 Wis. 2d at 647, and will not scour the record to develop viable, fact-supported legal theories on the appellant’s behalf, *Jackson*, 229 Wis. 2d at 337. Here, the appellant has failed to develop his arguments legally or to support them factually. Therefore, we affirm the circuit court on that basis.

Therefore,

IT IS ORDERED that the order is 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