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DISTRICT IV

October 18, 2019

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

2017AP794

Titus Henderson v. Jon Litscher (L.C. # 2017CV876)

Before Fitzpatrick, P.J., Blanchard 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).

Titus Henderson appeals pro se from a circuit court order dismissing his writ petition that was also filed pro se. After reviewing the briefs and record, we conclude at conference that this

case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1) (2017-18).¹ We summarily affirm.

Henderson, an inmate at Waupun Correctional Institution (WCI), filed a combined “Petition for Writ of Quo Warranto, Writ of Mandamus, [and] Writ of Certiorari” in the circuit court. As to the certiorari claim, the court denied Henderson’s petition for waiver of prepayment of fees and costs, due to his failure to exhaust administrative remedies. The court granted a fee waiver as to the mandamus and quo warranto claims, through which Henderson sought relief as to his public records requests related to “oaths and bonds” taken by public officials involved in his conviction and detention. The court concluded that Henderson’s quo warranto and mandamus claims were made for the sake of harassing public officials, and dismissed the petition as frivolous.

Henderson now appeals, arguing that the circuit court erred in dismissing his writ petition. We review the dismissal of the petition de novo. *See State ex rel. Greer v. Stahowiak*, 2005 WI App 219, ¶14, 287 Wis. 2d 795, 706 N.W.2d 161.

We turn first to Henderson’s argument that the circuit court erred in dismissing his request for a writ of mandamus. “Mandamus is the proper means to challenge a governmental agency’s failure to comply with the requirements of Wisconsin’s [public] records law.” *Id.*, ¶7. Under the [public] records law, “[e]xcept as otherwise provided by law, any requester has a right to inspect any record.” WIS. STAT. § 19.35(1)(a). However, an “incarcerated person” is generally excluded from the definition of a “requester” for purposes of the public records law,

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

“unless the person requests inspection or copies of a record that contains specific references to that person” and the requested record “is otherwise accessible to the person by law.” *See* WIS. STAT. § 19.32(3). Henderson is confined at WCI, a penal facility, and therefore is considered an “incarcerated person” under § 19.32(1c). The public records he requested were records of oaths and bonds of public officials. Nothing in Henderson’s briefs or the circuit court record indicates that Henderson requested records that contained specific references to him. Therefore, Henderson does not qualify as a “requester” under § 19.32(3) for purposes of the records he seeks. The court therefore properly dismissed his mandamus petition.

We turn next to Henderson’s quo warranto argument. Henderson asserts that public officials who have had any role in his incarceration and made decisions affecting him, including the circuit court judge, lack authority to hold their offices because they failed to swear oaths or post bonds. The State counters that Henderson’s argument is unsupported by any applicable legal authority. We agree, and we reject Henderson’s argument on that basis. This court need not consider arguments that are unsupported by adequate factual and legal citations or are otherwise undeveloped. *See Grothe v. Valley Coatings, Inc.*, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463, *abrogated on other grounds by Wiley v. M.M.N. Laufer Family Ltd. P’ship*, 2011 WI App 158, 338 Wis. 2d 178, 807 N.W.2d 236 (lack of record citations); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments).

Finally, we address Henderson’s argument that the circuit court erred in dismissing his request for certiorari review of several prison disciplinary decisions. The established procedure for seeking judicial review of a prison disciplinary decision is by writ of certiorari. *State ex rel. L’Minggio v. Gamble*, 2003 WI 82, ¶21, 263 Wis. 2d 55, 667 N.W.2d 1. Under WIS. STAT.

§ 893.735(2), a certiorari petition must be filed within forty-five days of the final decision. Here, the disciplinary decisions that Henderson seeks to challenge were issued from September 4, 1995, to February 1, 2017. Henderson's petition for writ of certiorari was filed on April 10, 2017, which was after the forty-five-day deadline had passed for the decisions he identifies. Therefore, the petition was untimely, and we are satisfied that the circuit court properly dismissed Henderson's certiorari claims.

IT IS ORDERED that the order is summarily affirmed under WIS. STAT. RULE 809.21(1).

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

Sheila T. Reiff
Clerk of Court of Appeals