



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III

April 28, 2020

To:

Hon. J. Michael Bitney
Circuit Court Judge
Barron County Courthouse Rm. 2602
1420 State Hwy 25 N.
Barron, WI 54812

Sharon Millermon
Clerk of Circuit Court
Barron County Justice Center Rm. 2201
1420 State Hwy 25 N.
Barron, WI 54812-3004

Andrea A. Perone
255 SE Santa Barbara Place
Cape Coral, FL 33990

William Russell Roberts
P.O. Box 314
Chetek, WI 54728

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

2018AP778

William Russell Roberts v. Andrea Ann Roberts
(L. C. No. 2014FA95)

Before Hruz, J.¹

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 his third appeal before us, William Roberts asks us to reverse a postdivorce order finding him in contempt for failing to abide by the terms of his judgment of divorce from Andrea Perone, as well as a subsequent order lifting a stay of sanctions imposed by that contempt order.²

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

² Although Perone was represented by counsel in the circuit court, both parties are unrepresented on appeal.

Based upon our review of the parties' briefs and the appellate record, we conclude this appeal is appropriate for summary disposition, and we summarily affirm. *See* WIS. STAT. RULE 809.21.

The parties' divorce judgment was entered on October 28, 2014. On July 27, 2016, the court found Roberts in contempt for violating the terms of that judgment. The court ordered Roberts to spend sixty days in jail as a sanction, but it "stayed" that sanction subject to Roberts' compliance with a number of purge conditions. Roberts appealed that contempt order, which we summarily affirmed. *Roberts v. Roberts*, No. 2016AP1709, unpublished op. and order (WI App Sept. 4, 2019) (hereinafter "*Roberts I*"). In our summary order, we concluded that although Roberts had appealed from the contempt order, he made no argument regarding that order on appeal and did not assert the court had erroneously exercised its discretion by finding him in contempt. *Id.* at 4. We therefore held that Roberts had "abandoned his appeal of the circuit court's contempt order." *Id.*

On August 22, 2017, Perone filed a motion to lift the stay of the contempt sanction and to enforce the circuit court's order that Roberts spend sixty days in jail. On November 3, 2017, the court entered an order granting Perone's motion and ordering Roberts to spend sixty days in jail, which Roberts appealed. *Roberts v. Perone*, No. 2017AP2474, unpublished slip op. ¶1 (WI App Feb. 4, 2020) (hereinafter "*Roberts II*"). We recently affirmed the court's order lifting the stay of the contempt sanction. *Id.*

In that decision, we addressed four issues raised by Roberts, some of which we had previously addressed in *Roberts I*. Roberts asserted: (1) Judge Bitney was objectively biased against him, warranting "retroactive disqualification and a new hearing with a new judge"; (2) the circuit court erred by failing to order a competency evaluation of Roberts before allowing

him to represent himself; (3) he was entitled to relief under WIS. STAT. § 100.18, which prohibits certain fraudulent misrepresentations; and (4) the July 27, 2016 contempt order was void because the court erroneously imposed a remedial contempt sanction without setting any purge conditions, which was contrary to WIS. STAT. § 785.04(1)(b). *Roberts II*, No. 2017AP2474, ¶¶14, 20, 23-24. We concluded that all four issues Roberts raised lacked merit. *Id.*, ¶¶14-26.

On November 20, 2017, Perone moved the circuit court to find Roberts in contempt of its November 3, 2017 order on the grounds that Roberts had still failed to comply with the terms of the divorce judgment. The court held a hearing on Perone’s motion, after which it entered an order on January 10, 2018, finding Roberts in contempt. It ordered Roberts to spend 120 days in jail as a sanction, but it “stayed” that sanction subject to Roberts’ compliance with a number of purge conditions relating to Roberts’ failure to comply with the terms of the divorce judgment.

On January 16, 2018, Perone filed a motion to lift the stay of the contempt sanction and to enforce the circuit court’s January 10 order that Roberts spend 120 days in jail. Following a hearing, the court entered an order on February 28, 2018, granting Perone’s motion and ordering Roberts to spend 120 days in jail. Roberts now appeals.³

Roberts raises four issues in this appeal: (1) he is entitled to a “new hearing with a new judge” “because of the appearance of impropriety and partiality” by Judge Bitney; (2) the circuit

³ Once again, both parties’ briefs contain multiple violations of the Rules of Appellate Procedure. See *Roberts II*, No. 2017AP2474, ¶10. We admonish the parties that, although they are pro se, future violations of the Rules of Appellate Procedure may result in sanctions, including the striking of noncompliant briefs. See WIS. STAT. RULE 809.83(2).

We additionally observe that in Roberts’ reply brief, he asks us to strike Perone’s brief based on its failure to comply with the Rules of Appellate Procedure. We decline to do so, given the significant rule violations contained within Roberts’ own appellate briefs.

court “failed to order a [m]ental [c]ompetency evaluation, given [its] knowledge of [Roberts’] [l]ife [l]ong illness”; (3) Roberts is entitled to relief under WIS. STAT. § 100.18, which prohibits certain fraudulent misrepresentations; and (4) the January 10, 2018 contempt order was void because the court erroneously imposed a remedial contempt sanction without setting any purge conditions, contrary to WIS. STAT. § 785.04(1)(b).⁴ We have previously determined, however, that Roberts’ arguments on the first three issues lack merit, and he presents no new material facts or evidence specific to the orders and their respective hearings in this appeal suggesting he is entitled to relief on these three issues. See *Roberts I*, No. 2016AP1709, at 5-6; *Roberts II*, No. 2017AP2474, ¶¶14-20, 23. Our prior decisions are the law of the case, and we therefore will not further address those issues. See WIS. STAT. RULE 809.23(3)(a); *Laatsch v. Derzon*, 2018 WI App 10, ¶40, 380 Wis. 2d 108, 908 N.W.2d 471 (“A decision on a legal issue by an appellate court establishes the law of the case, which must be followed in all subsequent proceedings in the trial court or on later appeal.” (Citation omitted)).

Turning to Roberts’ remaining argument, he asserts the circuit court erroneously exercised its discretion when it found him in contempt in January 2018. Roberts argues that the January 10, 2018 contempt order does not comply with WIS. STAT. ch. 785, both because there were no purge conditions stated and the contempt sanction was punitive rather than remedial. Roberts also appears to contend that the February 28, 2018 order lifting the stay of the imposed contempt sanctions is itself a contempt order that must comply with the contempt procedure outlined in ch.785.

⁴ The statement of issues in Roberts’ brief-in-chief purports to raise twenty-four separate issues for our consideration. However, the argument section of Roberts’ brief addresses only the four issues
(continued)

For the reasons set forth in our prior decision affirming the November 3, 2017 order lifting a stay of a previously imposed contempt sanction, we disagree with Roberts and conclude the circuit court properly exercised its discretion in finding Roberts in contempt, imposing and staying a 120-day jail term as a sanction for his contempt, and then lifting that stay upon finding Roberts' continued contempt. *See Roberts II*, No. 2017AP2474, ¶¶24-26. Roberts makes the exact same arguments in this appeal of the January 10, 2018 contempt order and the February 28, 2018 order lifting the stay on the imposed contempt sanctions as he did in his appeal of the November 3, 2017 order.⁵

In short, the circuit court properly exercised its discretion because the contempt order imposed a remedial sanction. The court plainly imposed the 120-day jail term, which was initially stayed, for the purpose of terminating Roberts' continuing contempt—i.e., his continued intentional failure to comply with the terms of the divorce judgment. *See WIS. STAT. § 785.04(1)(b)*. Further, Roberts ignores that the actual contempt order—i.e., the one the court entered on January 10, 2018—included purge conditions by which he failed to abide. The subsequent February 28, 2018 order merely lifted the stay on the imposed contempt sanctions. Accordingly, that order did not need to include purge conditions, as those conditions were already set forth in the January 10 contempt order. We therefore reject Roberts' argument that the court erred by imposing a remedial contempt sanction without setting any purge conditions.

identified above. We therefore confine our discussion to those four issues.

⁵ In a blatant violation of WIS. STAT. RULE 809.19(1)(e), Roberts' entire argument on this issue consists of an attempt to pass off our decision in *Diane K.J. v. James L.J.*, 196 Wis. 2d 964, 539 N.W.2d 703 (Ct. App. 1995), as his own. His argument quotes *Diane K.J.* verbatim, save for a few edits to substitute in the facts of his case. Roberts did the same in his brief-in-chief in *Roberts II*. This is yet another reason why we decline to discuss in any greater detail the merits of his argument.

Therefore,

IT IS ORDERED that the order is summarily affirmed. 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