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DISTRICT III

April 20, 2021

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

2019AP745

Michael P. Haanen v. Julie A. Gerow (L. C. No. 2017CV217)

Before Stark, P.J., Hruz and Seidl, 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).

Michael Haanen, pro se, appeals an order dismissing his action against Julie Gerow. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. For the reasons discussed below, we summarily affirm the order. *See* WIS. STAT. RULE 809.21 (2019-20).¹

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

Haanen filed the underlying suit for money damages against Gerow, his sister. The complaint alleged that Gerow, in her capacity as Haanen's power of attorney, made several withdrawals from Haanen's checking account, doing so without his knowledge or permission and for her personal use. Haanen further alleged that while he was in custody for bail jumping, Gerow took possession of Haanen's property and sold, destroyed, or traded all but a motorcycle. Haanen demanded judgment in his favor for breach of fiduciary duty and financial abuse by a power of attorney; an undefined penalty for taking advantage of power-of-attorney status; and damages in an amount deemed appropriate by the circuit court. After a bench trial, the court dismissed the action. As the reason for the dismissal, the order stated: "See record of hearing on March 1, 2019."

On appeal, Haanen argues that the circuit court erred when it dismissed his case based on a lack of evidence and when it "ignored" the Uniform Power of Attorney for Finances and Property statutes, which are contained in WIS. STAT. ch. 244. On review of a circuit court's dismissal of a plaintiff's case for insufficient evidence following trial, this court must view the evidence most favorably to the party adversely affected. *See Olfe v. Gordon*, 93 Wis. 2d 173, 185-86, 286 N.W.2d 573 (1980). Reversal of the circuit court is not warranted unless its ruling is clearly wrong. *Id.*

Despite his claims of circuit court error, Haanen failed to provide this court with the transcript of the bench trial. In fact, Haanen filed a statement on transcript notifying this court that a transcript was not needed for this appeal. As the appellant, Haanen was responsible for ensuring that all relevant transcripts are in the record. *See* WIS. STAT. RULE 809.11(4). When an appellant fails to ensure a complete record, our review is limited to the portions of the record available to us, and we assume that any missing transcript would support the circuit court's

findings of fact and discretionary decisions. See *Austin v. Ford Motor Co.*, 86 Wis. 2d 628, 641, 273 N.W.2d 233 (1979); see also *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993). The absence of the bench trial transcript prevents us from properly reviewing Haanen's claims of error derived from that trial, even though we have the trial exhibits. Haanen cannot simply retry his case on appeal. Because we assume the missing transcript supports the court's decision to dismiss the action, we affirm the order.²

Upon the foregoing,

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.

² We also note the conclusory nature of Haanen's brief and the arguments therein. Haanen's skeletal arguments fall below even the liberal thresholds of acceptability for pro se litigants. This court need not address issues so lacking in substance that for the court to decide the issues, it would first have to develop them. *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

Sheila T. Reiff
Clerk of Court of Appeals