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DISTRICT II

June 9, 2021

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

2020AP854

James D. Kurtz v. State of Wisconsin (L.C. #2017CV22)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

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 D. Kurtz, pro se, appeals from an order of the circuit court granting summary judgment on his claims against several individuals, the State of Wisconsin, and various government officials, and placing limits on his ability to file actions. 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 (2019-20).¹ We affirm the summary judgment order of the circuit court and adopt it as our decision. *See* WIS. CT. APP. IOP VI(5)(a) (Nov. 30, 2009) (court of appeals may adopt circuit court opinion). We also affirm the circuit court order adopting filing requirements imposed on Kurtz.

Kurtz filed a complaint alleging that Janet Lammers and various local and State government officials conspired to deny him access to his property. The allegations set forth in Kurtz’s complaint relate to events that occurred in 2009. The circuit court dismissed all claims because Kurtz did not file his complaint until January 2017, well after the statute of limitations on his claims had expired.

In dismissing the action, the circuit court noted that “Kurtz does not dispute that he filed this action beyond ... the expiration of the applicable statutes of limitation in this case[,]” but Kurtz argued that an earlier court order (the Torhorst Order) prevented him from timely filing and offered other arguments against the dismissal of the action. The court explained its summary judgment ruling as follows:

The [c]ourt has reviewed the factual record in this case and finds that there are no genuine disputed issues of material fact relative to the statute of limitations. Kurtz did not timely file suit under any applicable limitations period. Moreover, Kurtz has identified nothing, including the Torhorst Order, which precluded him from timely filing suit. Finally, Kurtz has failed to introduce any evidence by affidavit or otherwise which creates a genuine issue of material fact relative to his claims that the defendants should be estopped from raising the statute of limitations as a defense in this action. Kurtz failed to timely file his claims within the applicable limitations period. Accordingly, [Kurtz]’s claims against the defendants are dismissed as a matter of law.

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

We review a grant of summary judgment de novo. *Park Bancorporation, Inc. v. Sletteland*, 182 Wis. 2d 131, 140, 513 N.W.2d 609 (Ct. App. 1994).

On appeal, Kurtz does not challenge the circuit court's dismissal of his untimely claims. Instead, Kurtz's appellate briefs consist largely of attacks on and conspiracy claims against state and federal judges and law enforcement personnel. Moreover, he fails to provide any citations to the record to support his factual recitation, nor does he develop any relevant legal arguments in support of his appeal. He has therefore abandoned any argument that his claim was timely filed. *See A.O. Smith Corp. v. Allstate Ins. Cos.*, 222 Wis. 2d 475, 491-92, 588 N.W.2d 285 (Ct. App. 1998) (explaining that issues arising in the circuit court but not adequately briefed on appeal are deemed abandoned, and citing to numerous "decisions [which] stand for the proposition that a party has to adequately, and with some prominence, argue an issue in order for this court to decide it").

Setting aside the abandonment issue, we agree with the circuit court's decision. Kurtz's allegations and arguments were carefully and thoroughly addressed by the circuit court. Kurtz has failed to identify any disputed issue of fact or error of law as set forth in great detail by the circuit court in addressing the statute of limitations analysis as well as Kurtz's estoppel and other arguments. We hereby adopt and incorporate as our decision the circuit court decision and order granting summary judgment to the defendants and dismissing the action on its merits.

After issuing its dismissal on the merits, the circuit court scheduled further proceedings regarding the Torhorst Order. The court reiterated, validated, and readopted portions of the Torhorst Order going forward. Throughout the proceedings, the court made detailed findings regarding Kurtz's capacity to represent himself and Kurtz's lengthy history of frivolous

litigation. Kurtz does not challenge the circuit court's findings or its order, including adoption of portions of the Torhorst Order and, as such, has abandoned the issue on appeal.

Upon the foregoing reasons,

IT IS ORDERED that the orders of the circuit court are 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