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DISTRICT IV

March 31, 2022

To:

Hon. Todd P. Wolf
Circuit Court Judge
Electronic Notice

Daniel P. Worzalla
4119 Bluebird Dr.
Stevens Point, WI 54482

Lisa M. Roth
Clerk of Circuit Court
Portage Co. Courthouse
Electronic Notice

Karen R. Zimmerman
1559 Prado Drive
Fountain, CO 80817

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

2021AP475

In re the marriage of: Karen R. Zimmerman v. Daniel P. Worzalla
(L.C. # 2003FA349)

Before Kloppenburg, Fitzpatrick, and Graham, 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).

Daniel Worzalla, pro se, appeals the circuit court's order denying his motion to vacate child support arrearages. Respondent Karen Zimmerman has not filed a brief, and Worzalla has moved for summary reversal as a sanction.

By prior order, we held Worzalla's motion in abeyance for a determination of whether we could decide this appeal based solely on Worzalla's brief and the record. As that order noted, although summary reversal is a potential sanction for a respondent's failure to file a brief, "other judicial interests may not be served by summarily reversing a judgment or order on procedural grounds if the record plainly shows it was correct."

Based on our review of Worzalla's brief and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21(1) (2019-20).¹ We further conclude that this appeal can be decided based solely on Worzalla's brief and the record, and that the record plainly supports the circuit court's order. Accordingly, we deny Worzalla's motion for summary reversal, and we summarily affirm the order.

Worzalla makes two main arguments in challenging the circuit court's order. We address each of those arguments below. To the extent that Worzalla intends to raise any other arguments, those are not sufficiently developed so as to merit discussion. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (explaining that we need not consider inadequately developed arguments).

Worzalla's first argument is that the circuit court improperly acted as an advocate for Zimmerman, who did not appear at the hearing on Worzalla's child support motion. Worzalla argues that the court improperly questioned him about whether the children were living with Zimmerman in 2012, an issue that, according to Worzalla, he had not asked the court to address. We disagree.

Circuit courts are not to function as advocates or to "engage in excessive examination." *State v. Carprue*, 2004 WI 111, ¶44, 274 Wis. 2d 656, 683 N.W.2d 31. Here, however, the record demonstrates that the court remained neutral and reasonably questioned Worzalla in an attempt to resolve an issue that Worzalla had raised. Contrary to what he asserts on appeal, the hearing transcript shows that Worzalla raised the issue of whether the children were living with

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

Zimmerman in 2012 as one possible ground for vacating his child support arrearages. Ultimately, the court determined that Worzalla failed to show that the children were not in Zimmerman’s custody, and Worzalla has not provided any reason for us to overturn that determination.

Worzalla’s second argument relates to the circuit court’s determination that Worzalla’s incarceration did not supply grounds to vacate or reduce his child support arrearages. Worzalla argues that the court erroneously exercised its discretion by predetermining this issue. We disagree with Worzalla that the court predetermined the issue. Worzalla relies on statements the court made in its ruling, particularly the court’s statement that “I routinely have denied those motions,” referring to motions to reduce child support based on incarceration status. However, we are satisfied that the hearing record as a whole demonstrates that the court did not predetermine Worzalla’s case and instead made an individualized determination based on the facts.

Therefore,

IT IS ORDERED that the motion for summary reversal is denied.

IT IS FURTHER ORDERED that the circuit court’s order is summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

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

Sheila T. Reiff
Clerk of Court of Appeals