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DISTRICT IV

December 15, 2022

To:

Hon. Chris Taylor
Circuit Court Judge
Electronic Notice

Samantha Masino
Electronic Notice

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Petitioner

Petitioner

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

| | |
|------------|---|
| 2021AP1661 | Petitioner v. Samantha Masino (L.C. # 2021CV2209) |
| 2021AP1662 | Petitioner v. Samantha Masino (L.C. # 2021CV2210) |

Before Blanchard, P.J., Fitzpatrick, and Nashold, 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).

Samantha Masino appeals two harassment injunctions against her. Based upon our review of the briefs and record, we conclude at conference that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2019-20).¹ We affirm.

Masino's brief contains several complaints about the circuit court proceedings in these matters. However, the brief mainly fails to develop coherent arguments that apply relevant legal authority to the facts of record and instead relies largely on conclusory assertions. "A party must

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

do more than simply toss a bunch of concepts into the air with the hope that either the trial court or the opposing party will arrange them into viable and fact-supported legal theories.” *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). Consequently, 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 (lack of record citations); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments).

While we make some allowances for the failings of parties who, as here, are not represented by counsel, “[w]e cannot serve as both advocate and judge,” *Pettit*, 171 Wis. 2d at 647, and will not scour the record to develop viable, fact-supported legal theories on the appellant’s behalf, *Jackson*, 229 Wis. 2d at 337. Here, with one exception we discuss below, Masino has failed completely to develop her arguments legally or to support those factually.

Masino argues that the circuit court failed to provide her with an opportunity to cross-examine the petitioners. In remarks at the start of the hearing, the court stated that Masino would have an opportunity to ask the petitioners questions when they were done speaking. However, when the petitioners finished speaking, the court said, “Let’s go to you, Samantha,” and began asking questions of Samantha. No cross-examination by Masino occurred.

Although Masino had a right to cross-examine witnesses, we conclude that the lack of cross-examination is not a basis for reversal in this case for two reasons. First, Masino did not ask for this opportunity or object to the circuit court proceeding in the manner it did. By not asking and not objecting, Masino forfeited her right to cross-examine the opposing witnesses. One purpose of the forfeiture rule is to encourage parties to make all available arguments in

circuit court, and thus prevent unnecessary appeals by giving the circuit court an opportunity to avoid or correct its own errors. *State v. Ndina*, 2009 WI 21, ¶30, 315 Wis. 2d 653, 761 N.W.2d 612. The circuit court did not have that opportunity here.

Second, Masino does not explain what harm to her resulted from the lack of cross-examination. She does not explain how the result would have been different if she had cross-examined the petitioners.

For these reasons, we affirm the harassment injunctions.

IT IS ORDERED that the orders appealed from are summarily affirmed under 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