



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

December 29, 2022

To:

Hon. R. Michael Waterman
Circuit Court Judge
Electronic Notice

Brian Keenan
Electronic Notice

Kristi Severson
Clerk of Circuit Court
St. Croix County Courthouse
Electronic Notice

Warren Slocum
Electronic Notice

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

2021AP1621

Warren Slocum v. Wisconsin Dept. of Revenue
(L. C. No. 2020CV439)

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

Warren Slocum appeals from an order that dismissed his petition for review of a property tax assessment made by the Wisconsin Department of Revenue. After reviewing 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.

Slocum filed a complaint with the Department pursuant to WIS. STAT. § 70.85(1), challenging the tax assessment of property he owned in St. Croix County. The Department issued an order denying Slocum's complaint on November 25, 2020. Slocum filed a document

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

in the circuit court entitled “Petition for Review, etc.” on December 28, 2020. Slocum served the Department, via certified mail, with a file-stamped copy of the petition on January 5, 2021. On August 5, 2021, upon the Department’s motion, the circuit court dismissed the action for lack of personal jurisdiction, concluding that Slocum had failed to provide sufficient service upon the Department as required by statute. After the court also denied a motion for reconsideration, Slocum filed this appeal.

An appeal of a property tax assessment by the department “shall be by an action for certiorari in the circuit court of the county in which the property is located.” WIS. STAT. § 70.85(4)(c). To confer jurisdiction on the court, an action for certiorari must be commenced using one of three methods: (1) service of an authenticated summons and complaint; (2) service of an appropriate original writ; or (3) service of a complaint and order. *See* WIS. STAT. § 801.02(1), (5). When the defendant is a state agency, a summons and complaint must be personally served on the director of the agency or left with a person in charge of the agency’s office within ninety days of filing. *See* WIS. STAT. §§ 801.02(1), 801.11(4). Failure to comply with statutory service requirements is a fundamental defect that deprives the court of jurisdiction and warrants dismissal of the case. *Bergstrom v. Polk County*, 2011 WI App 20, ¶12, 331 Wis. 2d 678, 795 N.W.2d 482.

Here, Slocum does not dispute that he did not serve the Department with an original writ or a court order, or personally serve the Department’s director or its office with a summons and complaint within ninety days of initiating his action. We conclude, as did the circuit court, that Slocum failed to satisfy the statutory service requirements set forth in WIS. STAT. §§ 801.02(1) and 801.11(4) for initiating a certiorari action.

Slocum contends that he did not need to comply with WIS. STAT. §§ 801.02(1) and 801.11(4) because service by certified mail is authorized under WIS. STAT. § 227.53(1)(a)1. However, WIS. STAT. ch. 227 review does not apply to “[d]ecisions of the department of revenue other than decisions relating to alcohol beverage permits issued under [WIS. STAT.] ch. 125.” WIS. STAT. § 227.52(1). Because Slocum sought to challenge a property tax assessment rather than an alcohol permit, the applicable service provision was WIS. STAT. § 70.85(4)(c), not § 227.53(1)(a)1. Accordingly, the circuit court properly dismissed Slocum’s appeal for lack of personal jurisdiction.

Therefore,

IT IS ORDERED that the order is summarily affirmed under 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