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DISTRICT III

March 14, 2023

To:

Hon. Michael A. Schumacher
Circuit Court Judge
Electronic Notice

Susan Schaffer
Clerk of Circuit Court
Eau Claire County Courthouse
Electronic Notice

Mary Beth Gardner
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2411 North Hillcrest Parkway
Altoona, WI 54720

Randy Lee Rindahl 07105
South Dakota State Penitentiary
P.O. Box 5911
Sioux Falls, SD 57117-5911

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

2021AP748

Randy Lee Rindahl v. Mary Beth Gardner
(L. C. No. 2020CV140)

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).

Randy Rindahl, pro se, appeals from an order for dismissal. Based upon our review of the brief and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We affirm.

At the outset, we note that this matter has not been presented to this court in a posture susceptible to meaningful appellate review. Rindahl's brief does not conform to WIS. STAT.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

RULE 809.19. For instance, Rindahl has not included citations to the record on appeal. *See* RULE 809.19(1)(d), (e). A reviewing court is not required to sift through the record for facts to support an appellant's contentions. Rindahl's brief also offers incomprehensible assertions and conclusions rather than analysis, and he includes numerous references to irrelevant legal citations. We will not divine issues on a party's behalf. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). Our review was further hampered by Mary Beth Gardner's failure, as an attorney, to file a response brief, despite admonitions from this court and that failure to do so could result in summary reversal. Rindahl did not, therefore, file a reply brief.

As best we can discern, Rindahl argues the circuit court erred by dismissing his complaint against Gardner, arising out of her actions as an attorney for the estate of Rindahl's father. Rindahl appears to argue that Gardner's answer to his complaint was untimely and, therefore, his motion for default judgment should have been granted.²

The circuit court apparently held a hearing to consider Rindahl's motion for default judgment, as well as Gardner's motion to dismiss, based on insufficiency of service of process and failure to state a claim upon which relief could be granted. The record reveals that the court issued its Order For Dismissal Of Proceedings, which granted Gardner's motion and dismissed Rindahl's case without prejudice, "[f]or the reasons stated on the record."

² The record on appeal is unclear regarding service of process. A complaint was filed on April 17, 2020. An amended complaint was filed on July 8, 2020. Gardner filed an answer to the complaint on August 19, 2020. A summons was filed on September 2, 2020. Gardner submitted correspondence to the circuit court on September 8, 2020, stating that she was "in receipt of a document labeled Summons. This was mailed with no other document. There is nothing to answer."

Rindahl subsequently filed a notice of appeal. This court issued correspondence advising that Rindahl's Statement on Transcript was defective and could not be accepted. Included with that correspondence was a sample statement on transcript and additional information about completing the statement. Rindahl was informed that this court expected a properly completed Statement on Transcript to be filed within ten days of the date of that letter. We thereafter issued an order advising Rindahl that he had again submitted a defective Statement on Transcript and striking that invalid statement. On our own motion, we further extended—for over three additional weeks—the time for Rindahl to file a valid statement. We further advised Rindahl that failure to timely file a valid Statement on Transcript, or to request a further extension with good cause shown, would result in the appeal proceeding without further transcripts and that we would assume that any missing transcripts would support the circuit court's decision.

As mentioned previously, the circuit court's order dismissing Rindahl's case stated that the order was based upon "reasons stated on the record." However, Rindahl provided no valid Statement on Transcript indicating a transcript of that motion hearing was necessary to prosecute his appeal. It is the appellant's duty to assure a complete record on appeal, and when the record is incomplete, we will assume the missing material supports the ruling under attack. *See, e.g., Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993). We therefore affirm the order of dismissal.

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.

Sheila T. Reiff
Clerk of Court of Appeals