



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 II

March 29, 2023

To:

Hon. Sandy A. Williams
Circuit Court Judge
Electronic Notice

Robert Probst
Electronic Notice

Marylou Mueller
Clerk of Circuit Court
Ozaukee County Justice Center
Electronic Notice

Howard E. Leventhal
Electronic Notice

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

2021AP1184-CR

State of Wisconsin v. Howard E. Leventhal (L.C.# 2021CF16)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Howard E. Leventhal appeals from a judgment of conviction entered after he pled no contest to one count of stalking. He raises multiple claims on appeal. 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 (2021-22).¹ We affirm.

In 2021, the State charged Leventhal with two counts of stalking in Ozaukee County case No. 2021CF16. The charges stemmed from his attempts to contact his estranged former wife

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

and daughter—both of whom had obtained harassment injunctions against him.² The State had previously charged Leventhal with violating the harassment injunctions in Ozaukee County case Nos. 2019CM302, 2019CM312, and 2020CM172.

Ultimately, Leventhal elected to resolve his cases via a global plea agreement. In the case that is the subject of this appeal, Ozaukee County case No. 2021CF16, he pled no contest to one count of stalking. The remaining count was dismissed and read in. The circuit court followed the parties' joint sentencing recommendation and ordered three years of probation.

Leventhal subsequently filed this appeal challenging numerous aspects of his prosecution for stalking. Among other things, he complains that (1) his extradition to Wisconsin was unlawful; (2) his case was improperly venued; (3) his bail was excessive; and (4) the stalking statute, WIS. STAT. § 940.32, is unconstitutional.

The problem with Leventhal's appeal is that he has not shown that he is entitled to withdraw his no contest plea.³ By choosing to plead no contest without demonstrating error,

² According to the criminal complaint, Leventhal would file numerous frivolous lawsuits in an attempt to reestablish contact. In one letter to a victim, he wrote:

If contact between you and me is never re-established, the new lawsuits will never end, as long as I live. Underestimating my resolve on this will do nothing but produce an endless number of lawsuits. However the earth is scorched in the process has become meaningless to me. Five more lawsuits are staged, prepaid, scheduled, and pre-loaded into the Illinois e-file system, [for] court submission Jan 15, Feb 15, March 15, April 15, and May 15, 2021.

Leventhal is on notice that the use of the court system to harass or intimidate others will not be tolerated and may result in sanctions, including restricting future access to the courts and imposition of penalties or costs. See *State v. Casteel*, 2001 WI App 188, ¶25, 247 Wis. 2d 451, 634 N.W.2d 338; see also WIS. STAT. RULES 809.25(3), 809.83(2).

Leventhal has waived the right to bring challenges to his prosecution. *See State v. Villegas*, 2018 WI App 9, ¶49, 380 Wis. 2d 246, 908 N.W.2d 198; *see also State v. Kelty*, 2006 WI 101, ¶18, 294 Wis. 2d 62, 716 N.W.2d 886 (alteration in original; footnote omitted) (noting that under the guilty-plea-waiver rule, “a guilty, no contest, or *Alford* plea ‘waives all nonjurisdictional defects, including constitutional claims[.]’”). Accordingly, his challenges fail, and his conviction must stand.⁴

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is 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

³ Leventhal cites no defect in the circuit court’s plea colloquy. At one point in his brief, he suggests that his plea was nonetheless “coerced” by the “enormous emotional distress” he was under at the time. Leventhal did not raise this argument in the circuit court, nor does he adequately develop it on appeal. Those are two reasons for our rejection of it. *See State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727; *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). In any event, such an argument is belied by the record, which includes Leventhal’s assurance to the circuit court that he was entering his plea on his “own free will.”

⁴ To the extent we have not addressed an argument raised by Leventhal on appeal, the argument is deemed rejected. *See State v. Waste Mgmt. of Wis., Inc.*, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).