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DISTRICT IV

April 27, 2023

To:

Hon. Scott L. Horne
Circuit Court Judge
Electronic Notice

Sonja C. Davig
Electronic Notice

Tammy Pedretti
Clerk of Circuit Court
La Crosse County Courthouse
Electronic Notice

Rhett A. Hanson
Electronic Notice

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

2022AP774

Petitioner v. Rhett A. Hanson (L.C. # 2021CV514)

Before Kloppenburg, 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).

Rhett Hanson, pro se, appeals a harassment injunction order. 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 summarily affirm.

Hanson argues that the provision in the harassment injunction order that prohibits him from publishing any manuscript referencing the petitioner by name or pseudonym without her

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

consent violates his First Amendment rights. For the following three reasons, we reject that argument.

First, Hanson does not provide any legal authority to support his claim that the restriction on publishing material in this case, which is within the context of a harassment injunction order, violates the First Amendment. That is, while Hanson states broadly that the government may not limit his right to free speech, he makes no attempt to set forth a legal argument, with citation to relevant authority, that the First Amendment prohibits the specific limitation on speech within a harassment restraining order that is at issue in this case. We need not consider arguments that are insufficiently developed. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (declining to reach issues that were inadequately briefed because they were not supported by “developed themes reflecting any legal reasoning” and were “supported by only general statements”).

Second, it appears that Hanson has made this argument for the first time on appeal. Hanson does not assert that he raised a First Amendment argument in the circuit court, and he does not cite anything in the record indicating that the issue was previously raised. This court’s review of the material in the record does not reveal anything indicating that Hanson made a First Amendment claim in the circuit court. Accordingly, it appears that the argument is not properly before us. *See State v. Caban*, 210 Wis. 2d 597, 604, 563 N.W.2d 501 (1997) (“The general rule is that issues not presented to the circuit court will not be considered for the first time on appeal.”).

Third, the record lacks a transcript of the de novo hearing at which the circuit court made factual findings supporting its decision. We must therefore assume that the missing transcript

supports the circuit court’s decision to include a provision prohibiting Hanson from publishing any manuscript referencing the petitioner by name or pseudonym without her consent. *See State v. McAttee*, 2001 WI App 262, ¶5 n.1, 248 Wis. 2d 865, 637 N.W.2d 774 (“It is the appellant’s responsibility to ensure completion of the appellate record and ‘when an appellate record is incomplete in connection with an issue raised by the appellant, we must assume that the missing material supports the [circuit] court’s ruling.’” (quoted source omitted)).

Finally, the petitioner moves for costs and fees for a frivolous appeal. She contends that Hanson knew, or should have known, that this appeal had no reasonable basis in law or a good faith argument for a modification of the law. *See* WIS. STAT. RULE 809.25(3)(c)2. Specifically, the petitioner points out that Hanson’s arguments are unsupported by a transcript of the de novo hearing.

Hanson opposes the motion for costs and fees for a frivolous appeal. He argues that he has made a valid argument that the harassment injunction order violates his First Amendment rights.

To award costs and attorney fees, an appellate court must conclude that the entire appeal is frivolous. *State ex rel. Robinson v. Town of Bristol*, 2003 WI App 97, ¶54, 264 Wis. 2d 318, 667 N.W.2d 14. We look to what a reasonable party or attorney knew or should have known under the same or similar circumstances. *Howell v. Denomie*, 2005 WI 81, ¶9, 282 Wis. 2d 130, 698 N.W.2d 621.

We conclude that Hanson’s entire appeal is frivolous. As stated above, Hanson does not provide any legal basis for his argument that the provision in the harassment injunction order violates his First Amendment rights, and he has failed to provide a transcript of the de novo

hearing that would be necessary for this court to meaningfully assess any challenge to the circuit court's decision. We conclude that a reasonable party would have or should have known that this appeal was without any reasonable basis under these circumstances.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that cause is remanded to the circuit court to determine the amount of costs and reasonable attorney fees to be awarded to the respondent and assessed against the appellant pursuant to WIS. STAT. RULE 809.25(3).

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

Sheila T. Reiff
Clerk of Court of Appeals