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DISTRICT IV

July 20, 2023

To:

Hon. Julie Genovese
Circuit Court Judge
Electronic Notice

Sharmeen Denise Jones
Electronic Notice

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Petitioner
Electronic Notice

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

2022AP346

Petitioner v. Sharmeen Denise Jones (L.C. 2022CV258)

Before Blanchard, P.J., Kloppenburg, 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).

Sharmeen Jones appeals a harassment injunction against her. Based upon our review of the appellant's 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.

Although the respondent in this appeal did not file a brief, we conclude that summary reversal of the injunction as a sanction would not be appropriate in this case. Instead, we conclude that Jones's arguments lack merit.

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

Jones did not appear at the February 11, 2022, hearing at which the circuit court granted the injunction. Jones first argues that the court erred by granting a default judgment against her without requiring proof that Jones was served. She relies on WIS. STAT. § 806.02(3), which provides in relevant part: “If a defendant fails to appear in an action within the time fixed in [WIS. STAT.] s. 801.09 the court shall, before entering a judgment against such defendant, require proof of service of the summons in the manner required by [WIS. STAT.] s. 801.10.”

We conclude that this argument fails because Jones has not established that this statute applies in a harassment injunction case. The rules of civil procedure, including those in WIS. STAT. ch. 806, apply to all civil actions and special proceedings “except where different procedure is prescribed by statute or rule.” WIS. STAT. § 801.01(2). Unlike most civil actions, a harassment injunction is not commenced by service of a summons, but by filing and service of the petition. WIS. STAT. § 813.125(2)(a). In fact, that statute specifically prohibits use of a summons in harassment injunction cases. Because WIS. STAT. § 806.02(3) requires the court to obtain proof of service of “the summons” before entering a default judgment, the statute does not appear to apply in a case in which no summons was required or permitted. And, Jones has not pointed to any statute specific to the harassment injunction context that might impose the same requirement or have the same effect.

Jones also relies on WIS. STAT. § 779.12, which governs small claims actions. We similarly reject this argument because Jones has not established that this statute applies in a harassment injunction case.

Jones also argues that what she refers to as the default judgment granting the injunction should be vacated based on information that she provided to the circuit court in March and April

2022. She argues that the court erred in “dismissing” her motion to vacate based on that information. This appeal does not include circuit court decisions that were made after Jones filed the notice of appeal to start this appeal. *Chicago & N.W.R.R. v. LIRC*, 91 Wis. 2d 462, 473, 283 N.W.2d 603 (Ct. App. 1979), *aff’d*, 98 Wis. 2d 592, 297 N.W.2d 819 (1980) (appeal from a judgment does not embrace an order entered after judgment). Jones filed her notice of appeal on February 28, 2022. Therefore, the circuit court’s decision in April 2022 is not before us in this appeal, and we do not discuss that decision further.

IT IS ORDERED that the order appealed from is summarily affirmed under WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals