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DISTRICT IV

December 7, 2023

To:

Hon. Frank D. Remington
Circuit Court Judge
Electronic Notice

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Scott D. Drummond
Dane County Child Support Agency
210 Martin Luther King Jr. Blvd., Rm. 365
Madison, WI 53703

Julie Erin Fleming
Electronic Notice

Stephen Thomas Fleming
P.O. Box 235
Deerfield, WI 53531

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

2022AP1836

In re the marriage of: Julie Erin Fleming v. Stephen Thomas
Fleming (L.C. # 2020FA1945)

Before Blanchard, Graham, Taylor, 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).

Stephen Fleming appeals a judgment of divorce from respondent Julie Fleming. 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.

Stephen first argues that the circuit court erred by awarding sole custody of the parties' children to Julie. The court did so pursuant to WIS. STAT. § 767.41(2)(b)2.c. That statute

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

provides in relevant part that “the court may give sole legal custody only if it finds that doing so is in the child’s best interest and that ... [t]he parties will not be able to cooperate in the future decision making required under an award of joint legal custody.” Sec. 767.41(2)(b), (2)(b)2.c. The statute further provides that “evidence of interspousal battery, as described under [WIS. STAT. §§] 940.19 or 940.20 (1m) ..., creates a rebuttable presumption that the parties will not be able to cooperate in the future decision making required.” Sec. 767.41(2)(b)2.c.

Stephen asserts that there is “NO evidence” that he engaged in interspousal battery. However, his assertion is not consistent with the record. Julie testified to an incident in which Stephen broke her arm. Her testimony is evidence of interspousal battery and, by operation of WIS. STAT. § 767.41(2)(b)2.c., it creates a rebuttable presumption that the parties will not be able to cooperate. On appeal, Stephen does not point to any evidence in the record that would rebut that presumption by showing that the parties will be able to cooperate. Therefore, he has not demonstrated that the court erred when it awarded sole legal custody to Julie on this basis.

Stephen next argues that the circuit court erred in the property division. This argument is not sufficiently developed to enable review. Stephen’s brief does not provide citations to the record for any of the facts he presents, does not describe the specific part of the circuit court decision that he claims is erroneous, does not describe or apply any legal standards, and does not explain specifically what remedy he seeks regarding the property division. Stephen has not shown that the circuit court erred.

Finally, Stephen cites various passages in the trial transcript, and he argues that the circuit court made jokes and made light of Stephen’s situation. Stephen does not cite any legal authority to support any type of specific relief on this issue. With many of the cited passages, we

do not agree with Stephen's interpretation, nor do we agree with the inferences that he draws from these passages about the circuit court's beliefs. Without attempting to individually discuss each passage that Stephen cites, we are satisfied that they do not demonstrate any error on the part of the circuit court.

IT IS ORDERED that the judgment 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