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**DISTRICT II**

January 24, 2024

To:

Hon. Mary Kay Wagner  
Circuit Court Judge  
Electronic Notice

John Blimling  
Electronic Notice

Rebecca Matoska-Mentink  
Clerk of Circuit Court  
Kenosha County Courthouse  
Electronic Notice

Sean D. Cross  
2222 N. 16 St.  
Milwaukee, WI 53205

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

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2022AP2059-CR	State of Wisconsin v. Sean D. Cross (L.C. #2018CF1265)
2022AP2090-CR	State of Wisconsin v. Sean D. Cross (L.C. #2020CF74)

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).**

Sean D. Cross appeals pro se from judgments of conviction of the circuit court entered on his guilty pleas in these consolidated cases. He contends his convictions should be reversed on the grounds of prosecutorial misconduct and judicial bias. 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).<sup>1</sup> We affirm.

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

After he entered his pleas but before sentencing, Cross filed a motion to withdraw his guilty pleas, asserting that his attorney coerced him into accepting a plea agreement, his plea was not knowing, intelligent, and voluntary, and he is innocent of the charges. After an evidentiary hearing, the circuit court denied the motion, concluding Cross failed to establish his counsel had coerced him into entering the pleas and while Cross may have been nervous in entering the pleas, he failed to establish his plea was not knowing, intelligent, and voluntary. The court also concluded that Cross's claim of innocence was "not a credible claim" because he had made "statements to investigators about things involving this child's injuries." The court then sentenced Cross, entering the judgments of conviction he now appeals.

Cross's brief does not comply with several rules of appellate procedure. It does not contain "[a] statement of the issues presented for review and how the [circuit] court decided them." WIS. STAT. RULE 809.19(1)(b). Cross also fails to cite to the record or to support his argument with citation to legal authority, both of which are required under the appellate rules. See WIS. STAT. RULE 809.19(1)(e). While we recognize that Cross is pro se, he must still abide by the same rules as attorneys. See *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992).

In addition to failing to comply with the rules of appellate procedure, Cross's brief fails to develop any arguments, and "[w]e will not address undeveloped arguments." See *Clean Wis., Inc. v. PSC*, 2005 WI 93, ¶180 n.40, 282 Wis. 2d 250, 700 N.W.2d 768. An appellate judge cannot properly serve as both advocate and judge, see *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d at 633 (Ct. App. 1992), and thus, it is inappropriate for us to "abandon our neutrality to develop arguments" for Cross, see *Industrial Risk Insurers v. American Eng'g Testing, Inc.*, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. On this basis alone, his appeal fails.

Additionally, in its response brief, the State points out that Cross did not raise before the circuit court the prosecutorial misconduct or judicial bias claims he now raises before us. As a result, he forfeited these claims. *See State v. Rogers*, 196 Wis. 2d 817, 826-27, 539 N.W.2d 897 (Ct. App. 1995). It is Cross's burden to show that he raised these claims before the circuit court, *see State v. Huebner*, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727, and he does not attempt to do so. Indeed, Cross did not even file a reply brief, and thus, he has conceded the points the State makes in its response brief. *See Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994). Furthermore, our review of the record indicates the State is correct, i.e., Cross did not raise before the circuit court the prosecutorial misconduct or judicial bias claims he raises (but, again, failed to develop) on appeal. For this additional reason, Cross's appeal falls flat.

IT IS ORDERED that the judgments of the circuit court are summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*