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DISTRICT IV

July 11, 2024

To:

Hon. Barbara W. McCrory
Circuit Court Judge
Electronic Notice

Amanda Nelson
Clerk of Circuit Court
Rock County Courthouse
Electronic Notice

Peyton B. Engel
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Robert E. Shumaker
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Melvin Dushane Graham-Jackson
Electronic Notice

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

2023AP2371

Rock Prairie Farms LLC v. Melvin Dushane Graham-Jackson
(L.C. # 2023SC3047)

Before Kloppenburg, P.J.¹

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).

Melvin Dushane Graham-Jackson, pro se, appeals an eviction judgment against him in favor of Rock Prairie Farms LLC. On this court's own motion, this appeal is disposed of summarily pursuant to WIS. STAT. RULE 809.21(1).² I reject Graham-Jackson's arguments and affirm.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

² WISCONSIN STAT. RULE 809.21(1) provides that, "upon its own motion or upon the motion of a party," this court "may dispose of an appeal summarily."

In November 2023, Rock Prairie Farms LLC (“Rock Prairie Farms”) filed a complaint seeking to evict Graham-Jackson from property in Evansville (“the property”). In support of eviction, Rock Prairie Farms alleged the following.

Graham-Jackson is the step-grandson of Sandra Martin, who is the sole member of Rock Prairie Farms. Graham-Jackson has resided at the property since 2021 without a written lease. Martin initially consented to Graham-Jackson’s tenancy at the property. However, Martin suffered “elder abuse (physical and verbal abuse, physical and psychological coercion, and financial exploitation) at the hands of” Graham-Jackson. The abuse included Graham-Jackson’s “falsely purporting to be a member and manager of Rock Prairie Farms.” Martin determined that she wanted Graham-Jackson to leave the property, and on June 1, 2023, Rock Prairie Farms served him a notice terminating his tenancy. On June 16, 2023, Graham-Jackson “fraudulently executed and recorded a quit claim deed purporting to transfer ownership of Ms. Martin’s nearly 400-acre farm to ‘2553300 Rock Prairie,’ an unknown entity which cannot be found on the Department of Financial Institutions website.”

The circuit court held an eviction hearing on December 11, 2023. No transcript of the hearing is in the appellate record, but materials in the record show that witnesses including Martin and Graham-Jackson testified, and that the court received numerous exhibits submitted by Rock Prairie Farms. Among other documents, the court received the purported quitclaim deed transferring the property, which is signed by Graham-Jackson on behalf of Rock Prairie Farms. The court also received a document titled “Member Agreement,” dated April 18, 2023, which appears to be signed by Martin, and which states that Graham-Jackson will be the “manager” of Rock Prairie Farms and “will govern and decide all [its] business & financial affairs.” Rock Prairie Farms submitted an affidavit executed by Martin averring that Graham-

Jackson “has never been a member” of Rock Prairie Farms and “has no authority to act on its behalf,” and that the quit claim deed is “fraudulent, and the conveyance it purports to effect is invalid.”

After the hearing, the court issued a written order granting a judgment of eviction to Rock Prairie Farms. The order states that, during the eviction hearing, the court “made the following findings”: that Rock Prairie Farms “is the true owner” of the property; and that “Graham-Jackson is not now, and has never been, a member of Rock Prairie Farms.” Graham-Jackson appeals.³

As an initial matter, I note that Graham-Jackson’s appellate submissions fail to comply with numerous appellate rules. For example, Graham-Jackson’s appellant’s brief provides no “statement of the issues presented for review and how the trial court decided them”; Graham-Jackson fails to support many of his arguments with citations to “the authorities, statutes[,] and

³ Both parties ask me to consider material not in the appellate record in support of their arguments. For example, Graham-Jackson includes in his appendix transcripts of hearings that occurred in connection with other cases. Graham-Jackson fails to explain why I should consider these transcripts. See *State v. Aderhold*, 91 Wis. 2d 306, 314, 284 N.W.2d 108 (Ct. App. 1979) (the scope of appellate review is limited to material that has been “ordered incorporated in the [appellate] record”).

For its part, Rock Prairie Farms references and summarizes numerous court proceedings involving Graham-Jackson and Martin without providing any documentation of those proceedings. Rock Prairie Farms contends that this court may take “judicial notice” of these proceedings, presumably via Consolidated Court Automation Programs (“CCAP”) records. This court may generally take judicial notice of facts “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned,” which may include CCAP records. See WIS. STAT. § 902.01; *Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522. However, the information that Rock Prairie Farms asks me to consider often goes beyond what is readily available in the CCAP system. For example, Rock Prairie Farms represents that, in *Agrecol LLC v. Melvin D. Graham-Jackson*, Rock County case No. 23-CV-656, the circuit court found that Martin’s signature on the purported Member Agreement “was a forgery,” but cites no CCAP record or other document reflecting this purported finding.

Accordingly, I confine my review to the materials in the appellate record.

parts of the record relied on”; and Graham-Jackson asserts many facts without “appropriate references to the record.” See WIS. STAT. RULE 809.19(1)(b), (d), (e). Most crucially, Graham-Jackson failed to make the transcript of the eviction hearing part of the appellate record.⁴ See *Schaidler v. Mercy Med. Ctr. of Oshkosh, Inc.*, 209 Wis. 2d 457, 469, 563 N.W.2d 554 (Ct. App. 1997) (it is the appellant’s responsibility to ensure that the appellate record is complete). These failures make it difficult to evaluate Graham-Jackson’s arguments. Although “some leniency” may be allowed to pro se litigants, they are nevertheless generally held to the same procedural requirements as represented parties. See *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). To the extent that Graham-Jackson intends to make arguments other than those addressed in this opinion, I reject those arguments as undeveloped. See *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992) (this court does not “serve as both advocate and judge,” and may decline to address undeveloped arguments).⁵

Graham-Jackson’s primary argument is that Rock Prairie Farms is not entitled to eviction because it does not own the property. Graham-Jackson contends that he is a member of Rock

⁴ In the statement on transcript that Graham-Jackson filed with the circuit court, he represented that “all transcripts necessary for this appeal are already on file,” although no transcript of the eviction hearing was on file. After filing his appellant’s brief, Graham-Jackson moved to supplement the record with the eviction hearing transcript. This court ordered that, to supplement the record, Graham-Jackson must take certain actions including filing a “supplemental statement on transcript within thirty days of the date of this order” signed by the court reporter. Graham-Jackson did not file a supplemental statement on transcript, or the transcript itself. In June 2024, Graham-Jackson moved for additional time to file the transcript, but provided no explanation for his continued delay, and this court denied his motion.

⁵ Rock Prairie Farms asks me to dismiss Graham-Jackson’s appeal for noncompliance with appellate rules pursuant to WIS. STAT. RULE 809.83(2). I decline to do so.

Prairie Farms (presumably by operation of the purported Member Agreement),⁶ and that, via the purported quitclaim deed, he transferred the property from Rock Prairie Farms to “2553300 Rock Prairie,” a trust for which he acts as trustee. In response, Rock Prairie Farms contends that Martin’s signature on the purported Member Agreement was forged, and consequently Graham-Jackson is not a member of Rock Prairie Farms and had no authority to execute the purported quitclaim deed. Rock Prairie notes that, because Graham-Jackson failed to make the eviction hearing transcript part of the appellate record, there is no record support for a challenge to the circuit court’s determinations “that Ms. Martin did not sign the Purported Member Agreement, that Mr. Graham-Jackson was never a member of [Rock Prairie Farms], and that [Rock Prairie Farms] is the owner of the Property.”

I agree with Rock Prairie Farms that the lack of a transcript of the eviction hearing is fatal to Graham-Jackson’s argument. When the appellate record is incomplete, this court “must assume that the missing material supports the [circuit] court’s ruling.” *See Schaidler*, 209 Wis. 2d at 470. In the absence of a transcript of the eviction hearing, I must assume that the transcript supports the determinations that Martin did not sign or otherwise agree to the purported Member Agreement, that consequently Graham-Jackson is not a member of Rock Prairie Farms and had no authority to execute the purported quitclaim deed, and that consequently Rock Prairie Farms continues to own the property.

⁶ Graham-Jackson also appears to contend that he is a member of Rock Prairie Farms due to his status as “registered agent” for the business. A Wisconsin limited liability company is required to maintain a registered agent, *see* WIS. STAT. § 183.0115(1), whose “only duties” are administrative matters such as accepting service of process, *see* § 183.0115(3). Graham-Jackson fails to explain how his status as registered agent of Rock Prairie Farms would make him a member of the business or grant him authority to act on its behalf.

Graham-Jackson also contends that Rock Prairie Farms failed to prove with “legal[ly] binding documents” that it owns the property. Graham-Jackson may intend to argue that Rock Prairie Farms failed to prove that it owned the property prior to the purported June 16, 2023, transfer. However, Rock Prairie Farms submitted numerous documents, including land contracts and quit claim deeds, appearing to establish its title to the property, and Graham-Jackson fails to make any specific challenge to any of these documents. In addition, to the extent that he made this argument in the circuit court, I assume that the missing transcript supports the circuit court’s determination that Rock Prairie Farms proved that it owns the property, and owned it before June 16, 2023.

Graham-Jackson argues that “Martin is not a credible witness” and committed “acts of perjury” against him. Graham-Jackson fails to explain how Martin’s credibility relates to any facts at issue in this appeal, but he may intend to argue that the circuit court erred by crediting Martin’s presumed testimony that she did not sign the purported Member Agreement. This court is “deferential” to a circuit’s credibility findings and upholds them unless “clearly erroneous.” *State v. Jenkins*, 2007 WI 96, ¶33, 303 Wis. 2d 157, 736 N.W.2d 24. In the absence of a transcript of the eviction hearing, I must assume that the record shows that it was not clearly erroneous for the circuit court to credit Martin’s testimony at that hearing.

Graham-Jackson argues that “[a]n eviction hearing is not the appropriate forum” to determine LLC membership because that issue “involves contractual agreements, operating agreements, and state laws.” Graham-Jackson may intend to argue that the circuit court was not competent to decide the issue of LLC membership in an eviction proceeding. *See Village of Trempealeau v. Mikrut*, 2004 WI 79, ¶¶8-9, 273 Wis. 2d 76, 681 N.W.2d 190 (although circuit courts have subject matter jurisdiction over actions of “any nature whatsoever,” if a circuit court

fails “to comply with a statutory mandate pertaining to the exercise of subject matter jurisdiction,” it may lose “competency to adjudicate the particular case before the court”). However, Graham-Jackson fails to argue that any statute or other authority limits the circuit court’s exercise of subject matter jurisdiction in this context. See *Pettit*, 171 Wis. 2d at 646 (this court need not address arguments unsupported by citation to applicable legal authority). Moreover, “challenges to the circuit court’s competency are [forfeited] if not raised in the circuit court.” *Village of Trempealeau*, 273 Wis. 2d 76, ¶38. Appellate courts do not normally address forfeited issues, for reasons such as ensuring that “both parties and the circuit court” have “notice of the issue and a fair opportunity to address the objection.” See *State v. Ndina*, 2009 WI 21, ¶30, 315 Wis. 2d 653, 761 N.W.2d 612. In the absence of a transcript of the eviction hearing, I am unable to discern whether Graham-Jackson challenged the circuit court’s competency to decide the issue of LLC membership.

In fact, as explained above, Graham-Jackson’s defense that Rock Prairie Farms does not own the property depends on his status as a member of Rock Prairie Farms, and so it appears that Graham-Jackson himself put his membership at issue and at least impliedly consented to its determination. I presume that Graham-Jackson did not preserve for appeal the issue of whether the court lacked competency to address LLC membership, and I decline to address this unsupported and forfeited argument.⁷

⁷ Graham-Jackson contends that the circuit court committed “[p]lain [e]rrors through this wrongful eviction.” By this, he may be conceding that he failed to raise certain issues and asking this court to apply the plain error doctrine, which permits appellate courts to review unpreserved issues. See *State v. Jorgensen*, 2008 WI 60, ¶21, 310 Wis. 2d 138, 754 N.W.2d 77. However, “[t]o qualify for [the plain error] doctrine’s application ... the error must be obvious and substantial[,]” and “so fundamental that a new trial or other relief must be granted even though the action was not objected to at the time.” *State v. Bell*, 2018 WI 28, ¶12, 380 Wis. 2d 616, 909 N.W.2d 750 (alteration in *Bell*; internal quotation (continued)

Relatedly, Graham-Jackson contends that determining LLC membership in an eviction proceeding violated his due process rights under the Fourth, Fifth, and Fourteenth Amendments of the U.S. Constitution. Graham-Jackson may intend to argue that eviction proceedings are procedurally inadequate for determining LLC membership because they are summary in nature. *See Highland Manor Assocs. v. Bast*, 2003 WI 152, ¶16, 268 Wis. 2d 1, 672 N.W.2d 709 (noting that “the legislature intended eviction proceedings to be as summary as possible”). This argument fails for essentially the same reasons as Graham-Jackson’s competency argument. Graham-Jackson neglects to develop this argument by explaining how the constitutional amendments he cites support it or explaining why eviction proceedings would be procedurally inadequate. Additionally, Graham-Jackson does not contend that he raised the issue of due process before the circuit court, and in the absence of a transcript I presume he did not. I decline to address Graham-Jackson’s undeveloped and forfeited due process argument.

Graham-Jackson also argues that the tenancy termination notice he received was deficient. The parties appear to agree that Graham-Jackson had a tenancy-at-will, terminable by the landlord with 28 days’ written notice. *See WIS. STAT. § 704.19(1)(b), (4)*. The 28-day termination notice, which the circuit court received as an exhibit, states that it is from “Sandra Martin.” However, as Graham-Jackson notes, Martin does not individually own the property. According to Graham-Jackson, the notice was defective because it did not purport to come from Rock Prairie Farms, the party claiming to be the landlord.

marks and quoted source omitted). Graham-Jackson fails to explain how any purported “plain error” here meets this standard.

Termination notice by the landlord may be given “by the landlord or a person in the landlord’s behalf.” WIS. STAT. § 704.21(1) The notice must “substantially inform” the tenant “of the intent to terminate the tenancy and the date of termination.” WIS. STAT. § 704.19(4). “A notice is not invalid because of errors in the notice which do not mislead, including omission of the name of one of several landlords or tenants.” Sec. 704.19(4).

Rock Prairie Farms contends that Martin gave the notice to Graham-Jackson on its behalf, and that the notice “substantially informed” Graham-Jackson of Rock Prairie Farms’ intent to terminate his tenancy. Rock Prairie Farms argues that, under the circumstances, the notice was not “misleading,” noting that Graham-Jackson admittedly was aware that Martin was a member of Rock Prairie Farms. Graham-Jackson fails to respond in his reply brief to Rock Prairie Farms’ argument that the notice was not misleading and substantially informed Graham-Jackson of Rock Prairie Farms’ intent to terminate the tenancy, and I deem this argument conceded. *See United Coop. v. Frontier FS Coop.*, 2007 WI App 197, ¶39, 304 Wis. 2d 750, 738 N.W.2d 578 (a party’s failure to respond may be taken as a concession). Additionally, I note that Graham-Jackson does not contend that he raised the notice issue before the circuit court. In the absence of the eviction hearing transcript, I presume that Graham-Jackson forfeited this argument and reject it on forfeiture grounds as well.

For all of these reasons, I reject Graham-Jackson’s arguments and affirm the circuit court’s order.⁸

⁸ Rock Prairie Farms argues that Graham-Jackson’s appeal is frivolous, and moves this court for costs, fees, attorney fees, and other relief. *See* WIS. STAT. § 809.25(3) (“If an appeal ... is found to be frivolous by the court, the court shall award to the successful party costs, fees, and reasonable attorney (continued)

IT IS ORDERED that the circuit court’s judgment of eviction is affirmed.

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

Samuel A. Christensen
Clerk of Court of Appeals

fees”). An appeal is frivolous if it was “filed, used or continued in bad faith, solely for purposes of harassing or maliciously injuring another,” or if “the party or the party’s attorney knew, or should have known, that the appeal ... was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.” Sec. 809.25(3). Sanctions will not be awarded unless the “entire appeal” is frivolous. *Thompson v. Ouellette*, 2023 WI App 7, ¶44, 406 Wis. 2d 99, 986 N.W.2d 338. Based on the record, I do not determine that Graham-Jackson’s appeal is frivolous, and I deny Rock Prairie Farms’ request for sanctions under § 809.25(3).