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DISTRICT II

July 17, 2024

To:

Hon. David P. Wilk
Circuit Court Judge
Electronic Notice

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

2023AP1882

Terri M. Deprinzio v. Chandra Sahota (L.C. #2023CV548)

Before Neubauer, Grogan and Lazar, 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).

Terri M. Deprinzio, pro se, appeals from an order of the circuit court, asserting the court erroneously exercised its discretion in denying her petition for waiver of transcript fees. 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.

Deprinzio filed the complaint in this action against seven defendants alleging they orchestrated the theft of her fishing boat. The circuit court dismissed the case without prejudice after determining that no service was made of an authenticated copy of the summons and complaint upon the defendants within the required statutory time period. Deprinzio filed with the circuit court a notice of appeal and a petition for waiver of transcript fees. The court held a hearing on September 26, 2023, and denied the petition, checking a box on the form order indicating that it did so because Deprinzio “has not stated a meritorious claim, defense, or appeal upon which the court may grant relief” and adding the following handwritten explanation: “Failure of service. [Court] lacks jurisdiction.”

Under WIS. STAT. § 814.29, a litigant is entitled to free transcripts on appeal of a civil case when the litigant establishes both indigency and that his or her underlying appeal states “a claim upon which relief can be granted.” *See State ex rel. Girouard v. Circuit Ct. for Jackson Cnty.*, 155 Wis. 2d 148, 159, 454 N.W.2d 792 (1990); *State ex rel. Luedtke v. Bertrand*, 220 Wis. 2d 574, 578, 583 N.W.2d 858 (Ct. App. 1998), *aff’d by an equally divided court*, 226 Wis. 2d 271, 594 N.W.2d 370 (1999), *superseded by statute on other grounds*. Whether an appeal states a claim upon which relief may be granted is a question of law we review de novo. *Data Key Partners v. Permira Advisers LLC*, 2014 WI 86, ¶17, 356 Wis. 2d 665, 849 N.W.2d 693.

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

The issue is whether Deprinzio’s underlying appeal states a claim upon which relief can be granted and she, therefore, is entitled to a transcript of the September 26, 2023 hearing without having to pay the transcript fees. The circuit court concluded she was not so entitled.

Deprinzio asserts that it is the practice of Kenosha County courts to deny indigent litigants “access to transcripts” and that the courts do so without “issu[ing] a written order.”² Here, the court did issue a written order. Additionally, Deprinzio’s assertion as to the practice of Kenosha County courts is conclusory and without any citation to the record. Therefore, we address it no further. *See Associates Fin. Servs. Co. of Wis., Inc. v. Brown*, 2002 WI App 300, ¶4 n.3, 258 Wis. 2d 915, 656 N.W.2d 56 (declining to address conclusory and undeveloped arguments); *Roy v. St. Lukes Med. Ctr.*, 2007 WI App 218, ¶10 n.1, 305 Wis. 2d 658, 741 N.W.2d 256 (“We have no duty to scour the record to review arguments unaccompanied by adequate record citation.”).

Deprinzio fails to provide facts or legal argument showing that the circuit court erred in dismissing the case without prejudice due to lack of jurisdiction. *See State ex rel. Luedtke*, 220 Wis. 2d at 578. On appeal, it is Deprinzio’s burden to demonstrate that the circuit court erred in denying her petition for waiver of transcript fees. *See Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381. Deprinzio fails to develop any arguments to demonstrate how the circuit court erred, and “[w]e will not address undeveloped arguments.” *See Clean*

² Deprinzio also asserts that the circuit court violated the “constitutional ... guarantee to ensure access to the court for a legal remedy” and her constitutional rights of due process and equal protection by “declin[ing] to conduct a hearing to determine [her] indigent status.” However, Deprinzio’s indigent status is not at issue here. In addition, any constitutional argument she has is wholly undeveloped and will not be addressed. *See ABKA Ltd. P’ship v. Board of Rev.*, 231 Wis. 2d 328, 349 n.9, 603 N.W.2d 217 (1999) (“This court will not address undeveloped arguments.”).

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 633 (Ct. App. 1992), and thus, it is inappropriate for us to “abandon our neutrality to develop arguments” for Deprinzio, see *Industrial Risk Insurers v. American Engineering Testing, Inc.*, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82. See also *Doe 1 v. Madison Metro. Sch. Dist.*, 2022 WI 65, ¶35, 403 Wis. 2d 369, 976 N.W.2d 584 (“[Appellate courts] do not step out of our neutral role to develop or construct arguments for parties; it is up to them to make their case.” (citation omitted)). Having failed to develop any legal arguments to demonstrate how the circuit court may have erred in denying her petition for waiver of transcript fees, Deprinzio has failed to meet her burden as the appellant; thus, we affirm.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed. See 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