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DISTRICT II

July 17, 2024

To:

Hon. Daniel J. Borowski
Circuit Court Judge
Electronic Notice

Herbert Conrad Humke
Electronic Notice

Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Michael D. Morris
Electronic Notice

James D. Kurtz
Electronic Notice

Dwight D. Darrow
Electronic Notice

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

2023AP414

James D. Kurtz v. State of Wisconsin (L.C. #2017CV22)

Before Gundrum, P.J., 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).

James D. Kurtz, pro se, appeals from three circuit court orders: (1) the February 8, 2023 order finding Kurtz in contempt for re-filing a lis pendens against real property that had been discharged; (2) the April 10, 2023 order restraining and enjoining Kurtz from filing/recording any more lis pendens against the real property involved; and (3) the May 22, 2023 order¹ discharging another lis pendens Kurtz filed and entering a permanent injunction against any

¹ Kurtz's appeal as to this order identifies an order entered on May 5, 2023. Although the circuit court held a hearing on May 5, 2023, it did not sign and file its written order until May 22, 2023.

future filings. 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).² We affirm.

This matter arises from a Complaint Kurtz filed in 2017 involving his belief that others had denied him access to real and personal property. In 2021, this court affirmed the circuit court's dismissal of Kurtz's Complaint. *See Kurtz v. State*, No. 2020AP854, unpublished op. and order (WI App June 9, 2021). After our supreme court denied Kurtz's petition for review of our decision in No. 2020AP854, the defendants moved the circuit court to dismiss the lis pendens Kurtz had filed while the appeals were pending. The circuit court granted the motion and discharged the lis pendens, but Kurtz then re-filed an amended lis pendens. In April 2024, we affirmed the circuit court order discharging the re-filed lis pendens. *See Kurtz v. State*, No. 2022AP1111, unpublished op. and order (WI App Apr. 24, 2024).

Kurtz returns to this court again and now challenges three more orders related to his 2017 Complaint and his lis pendens filings. We again affirm the circuit court. First, Kurtz failed to file a transcript from the hearings preceding the February and April orders. As the appellant, Kurtz has the burden "to demonstrate that the trial court erred[.]" *See Seltrecht v. Bremer*, 214 Wis. 2d 110, 125, 571 N.W.2d 686 (Ct. App. 1997). It is also his "responsibility to ensure completion of the appellate record and 'when an appellate record is incomplete in connection with an issue raised by the appellant, we must assume that the missing material supports the trial court's ruling.'" *See State v. McAttee*, 2001 WI App 262, ¶5 n.1, 248 Wis. 2d 865, 637 N.W.2d

² All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

774 (citation omitted). “[I]n the absence of a transcript we presume that every fact essential to sustain the circuit court’s decision is supported by the record.” *Butcher v. Ameritech Corp.*, 2007 WI App 5, ¶35, 298 Wis. 2d 468, 727 N.W.2d 546 (2006). Accordingly, we presume the transcripts support the circuit court’s February and April orders and affirm them.³

Second, with respect to Kurtz’s appeal from the May 2023 order, his brief is incomprehensible and fails to develop any argument telling us how the circuit court erred. Again, on appeal, Kurtz bears the burden of showing that the circuit court erred. *See Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381. He fails to do so here. Parties must support their legal arguments “with citations to the authorities, statutes and parts of the record relied on” and develop their arguments by applying the legal authorities they cite to the facts of the case. WIS. STAT. RULE 809.19(1)(e). Although Kurtz is representing himself in this appeal, his briefs must still comply with these requirements. *See Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). It is not our responsibility to develop arguments for a party, and we are not required to address arguments that are undeveloped or not supported by citations to the record. *See 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 [their] neutral role to develop or construct arguments for parties” (citation omitted)); *Madely v. RadioShack Corp.*, 2007 WI App 244, ¶14 n.7, 306 Wis. 2d 312, 742 N.W.2d 559 (“we have no duty to scour the record to review arguments unaccompanied by adequate record citations”).

³ The transcript for the May 5, 2023 hearing, which resulted in the May 22, 2023 order appealed from, is likewise not included in the Record for this appeal; however, we take judicial notice that that transcript has been filed in another of Kurtz’s pending appeals, No. 2023AP1361. Accordingly, we do not rely on *Butcher v. Ameritech Corp.*, 2007 WI App 5, ¶35, 298 Wis. 2d 468, 727 N.W.2d 546 (2006), in affirming the May 2023 order.

Accordingly, we affirm the May 2023 order because Kurtz failed to sufficiently develop any argument demonstrating how the circuit court erred. *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.”).⁴

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to 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

⁴ To the extent we have not addressed an argument on appeal, the argument is deemed rejected. *See State v. Waste Mgmt. of Wis., Inc.*, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).