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110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
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**DISTRICT IV**

February 26, 2013

To:

Hon. C. William Foust  
Circuit Court Judge  
215 South Hamilton, Br 14, Rm 7109  
Madison, WI 53703

Carlo Esqueda  
Clerk of Circuit Court  
Room 1000  
215 South Hamilton  
Madison, WI 53703

Abigail Potts  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707

Dept. of Justice, Civil Litigation Unit  
P.O. Box 7857  
Madison, WI 53707-7857

Cory Hewitt 191547  
Stanley Corr. Inst.  
100 Corrections Drive  
Stanley, WI 54768

Stanley Correctional Institution  
100 Corrections Dr.  
Stanley, WI 54768-6500

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

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2011AP2577

Cory Hewitt v. Susan Nygren (L.C. # 2010CV5613)

Before Lundsten, P.J., Sherman and Blanchard, JJ.

Cory Hewitt appeals the circuit court's order granting the defendants' motion for summary judgment. 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 (2011-12).<sup>1</sup>

We summarily affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Hewitt, an inmate in the Wisconsin prison system, filed a civil action against twelve state employees, seeking damages for injuries he alleged he suffered as a result of the defendants' negligence. Specifically, Hewitt alleged that he contracted an illness as a result of being improperly placed in a cell with an infected inmate. The defendants filed a motion for summary judgment, and the circuit court granted the motion. Hewitt now appeals.

Hewitt's brief contains numerous complaints about the circuit court proceedings in this matter. The brief fails, however, to develop coherent arguments that apply relevant legal authority to the facts of record, and instead relies largely on conclusory assertions. "A party must do more than simply toss a bunch of concepts into the air with the hope that either the trial court or the opposing party will arrange them into viable and fact-supported legal theories." *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). Consequently, this court need not consider arguments that either are unsupported by adequate factual and legal citations or are otherwise undeveloped. See *Dieck v. Unified Sch. Dist. of Antigo*, 157 Wis. 2d 134, 148 n.9, 458 N.W.2d 565 (Ct. App. 1990) (unsupported factual assertions); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments). While we make some allowances for the failings of parties who, as here, are not represented by counsel, "[w]e cannot serve as both advocate and judge," *Pettit*, 171 Wis. 2d at 647, and will not scour the record to develop viable, fact-supported legal theories on the appellant's behalf, *Jackson*, 229 Wis. 2d at 337. Here, Hewitt has failed to develop his arguments legally or to support them factually. Therefore, we affirm the circuit court on that basis.

IT IS ORDERED that the order is summarily affirmed under Wis. STAT. RULE 809.21(1).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*