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DISTRICT II

July 24, 2013

To:

Hon. Sandy A. Williams
Circuit Court Judge
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Port Washington, WI 53074-0994

Marylou Mueller
Clerk of Circuit Court
Ozaukee County Circuit Court
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You are hereby notified that the Court has entered the following opinion and order:

2012AP1932

John K. Borowski v. Valerie M. Kufrin (L.C. # 2007FA275)

Before Brown, C.J., Reilly and Gundrum, JJ.

John Borowski appeals from a circuit court order denying his request to waive the cost of transcripts for *Borowski v. Gullickson*, No. 2012AP106. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. WIS. STAT. RULE 809.21 (2011-12).¹ We affirm the circuit court.

In May 2012, Borowski moved the circuit court to waive the cost of transcripts for appeal No. 2012AP106. The circuit court's May 30 order required Borowski to provide the circuit court

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

with more detailed financial information and a statement regarding the merits of his appeal. In response, Borowski filed an affidavit setting out his current income, liabilities and expenses. Borowski contended that he could not afford \$1088 for transcripts.

The circuit court found that Borowski was not indigent for purposes of waiving the cost of transcripts. The court made the following findings. Borowski voluntarily left his previous employment and relocated before he secured new employment. Borowski relocated to an area where transportation is difficult, thereby hindering his employment search. Borowski pays for internet service each month which the circuit court deemed unnecessary. Borowski lists among his assets a boat with a value of approximately \$3000.² The court deemed the boat “a nonnecessity item” and concluded that Borowski should sell the boat “before the taxpayers pay his cost of transcripts.”

On appeal, Borowski challenges the circuit court’s indigency findings. Borowski’s appellant’s brief alleges facts without citation to the record contrary to WIS. STAT. RULE 809.19(1), and he also alleges facts that were not offered to the circuit court.

Borowski’s request for free transcripts was governed by WIS. STAT. § 814.29. A litigant is entitled to free transcripts in a civil action when the circuit court determines both that the litigant is indigent and that the appeal has arguable merit.³ *State ex rel. Girouard v. Jackson*

² Borowski’s affidavit of indigency listed the boat’s value at \$2500.

³ Because the circuit court found that Borowski was not indigent, the court did not address whether the appeal for which Borowski wanted free transcripts had arguable merit. Borowski does not argue arguable merit on appeal, and we do not address it.

Cnty. Cir. Ct., 155 Wis. 2d 148, 159, 454 N.W.2d 792 (1990). We will uphold the circuit court's findings of fact unless they are clearly erroneous. WIS. STAT. § 805.17(2).

The circuit court did not err in viewing the \$2500 boat as an asset that Borowski could liquidate to pay for \$1088 in transcripts. The court's findings and inferences regarding the origin of Borowski's financial and employment difficulties are supported by the record.

Upon the foregoing reasons,

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

Diane M. Fremgen
Clerk of Court of Appeals