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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**

July 19, 2013

To:

Hon. Andrew P. Bissonnette  
Circuit Court Judge  
Justice Facility  
210 West Center St.  
Juneau, WI 53039

Lynn M. Hron  
Clerk of Circuit Court  
Dodge Co. Justice Facility  
210 West Center Street  
Juneau, WI 53039

Kevin C. Potter  
Assistant Attorney General  
P.O. Box 7857  
Madison, WI 53707-7857

Francis X. Sullivan  
Assistant Attorney General  
P. O. Box 7857  
Madison, WI 53707-7857

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

Mark Allen Walters 138767  
Waupun Corr. Inst.  
P.O. Box 351  
Waupun, WI 53963-0351

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

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2012AP892

Mark Allen Walters v. Dentist/Doctor Mr. Schettle, DDS  
(L.C. # 2011CV287)

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

Mark Walters appeals a judgment dismissing his complaint against a prison dentist. 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(1) (2011-12).<sup>1</sup> We affirm.

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

The circuit court regarded this as a dental malpractice case, and dismissed it because Walters did not have available an expert who would testify about the standard of care in what the court regarded as a dental malpractice case. Walters argues that the circuit court erred by not appointing counsel for him, by not letting him use his release account funds to obtain an expert witness with his family's help, by not letting him subpoena an expert witness in Illinois, and by granting summary judgment to the defendant.

However, we are not able to see any coherent explanation of why the circuit court was legally required to grant Walters' requests, or erred in dismissing the case on the ground that it did. 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," *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992), and we will not scour the record to develop viable, fact-supported legal theories on the appellant's behalf, *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). Therefore, we affirm the dismissal.

Separately, we express appreciation for the effort made by counsel for the respondent to identify Walters' arguments and explain why they lack merit. Respondents do not always make sufficient efforts to discern arguments in difficult *pro se* briefs.

IT IS ORDERED that the judgment appealed is summarily affirmed under WIS. STAT. RULE 809.21(1).

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