

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 6, 2012

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2011AP1681

Cir. Ct. No. 2010PA4PJ

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

IN RE THE PATERNITY OF L.T.R.:

STATE OF WISCONSIN,

PETITIONER,

AMANDA ROSE REICH,

PETITIONER-RESPONDENT,

v.

JEREMIAH J. GRUBE,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Rusk County:
STEVEN P. ANDERSON, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Mangerson, JJ.

¶1 PER CURIAM. Jeremiah Grube, pro se, appeals a paternity judgment. We affirm.

¶2 Grube was incarcerated at the time of the paternity hearing and did not appear. The court found that Grube “does voluntarily acknowledge and admit to paternity of [the child].”¹ The court also found the child’s mother, Amanda Reich, “was a fit and proper person to have the care and custody of the Child,” and it was in the child’s best interests that Reich be granted sole legal custody and primary placement. The court ordered Grube to pay monthly child support of \$186.93, based upon imputed minimum wage at thirty-five hours weekly. The court entered its findings of fact, conclusions of law and judgment. Grube now appeals.

¶3 Grube argues the State was not an interested party and “the interest of the state to pursue Grube is without a basis in law.” However, Grube’s argument is undeveloped and unsupported by citation to legal authority. We will not abandon our neutrality to develop arguments, and arguments unsupported by legal authority will not be considered. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

¶4 Grube next alleges a conflict of interest regarding Reich’s attorney, and circuit court bias. Grube further argues the court did not act in the child’s best

¹ We do not discern that Grube disputes being the child’s biological father. Reich represents in her brief to this court that Grube acknowledged in a December 17, 2010 letter to the circuit court that he likely was the father, as well as the accuracy of an attached DNA test. Grube does not reply to this statement and it is therefore deemed admitted. *See Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979). In any event, we note that Grube’s appendix contains a document dated December 17, 2010, wherein he represents to the circuit court, “Respondent agrees he is likely the father of [the child] and believes the private DNA test attached as exhibit 1 to be accurate.”

interest because it failed to appoint a guardian ad litem and the court did not “examine a parenting plan before awarding custody to Reich.”

¶5 Reich responds that these issues were not raised below. Grube fails to refute these arguments. Arguments not refuted are deemed admitted. *See Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979). Moreover, we generally do not consider issues raised for the first time on appeal, and we decline to do so here. *See Wirth v. Ehly*, 93 Wis. 2d 433, 443, 287 N.W.2d 140 (1980).

¶6 Grube also contends he submitted a “Writ of Habeas Corpus Ad Testificandum [sic],” and the circuit court “did not inform Grube of any decision to that Writ.” Grube insists the court “should have at the very least understood Grube’s desire to be present at the hearing and give Grube the decency and respect to at least inform Grube of the hearing date.” Grube further claims the court refused to grant his “statutorily guaranteed right to council [sic],” and asserts he “explained to the court he is in prison putting him below the poverty limit preventing him from retaining counsel.” He also insists the court erroneously denied his motion to waive transcript fees, “[p]reventing Grube from discovering any pertinent information and supplementing the record.” Grube also contends the court erroneously exercised its discretion in setting child support.

¶7 However, Grube provides no citation to the record on appeal in support of his arguments,² other than several citations to purported “exhibits”

² Both parties fail to provide citation to the record on appeal, in violation of WIS. STAT. RULE 809.19 (2009-10). In addition, the parties improperly use the phrase “abuse of discretion.” In 1992, our supreme court replaced the phrase “abuse of discretion” with the phrase “erroneous exercise of discretion.” *See Shirk v. Bowling, Inc.*, 2001 WI 36, ¶9 n.6, 242 Wis. 2d 153, 624 N.W.2d 375.

contained in his appendix.³ A party may not use the brief's appendix to supplement the record. See *Reznichek v. Grall*, 150 Wis. 2d 752, 754 n.1, 442 N.W.2d 545 (Ct. App. 1989). We decline to embark on our own search of the record, unguided by references, to look for evidence to support Grube's arguments. See *Stuart v. Weisflog's Showroom Gallery, Inc.*, 2006 WI App 109, ¶36, 293 Wis. 2d 668, 721 N.W.2d 127.

¶8 In addition, the appellant must ensure a complete record for the issues on appeal, and missing material is assumed to support the circuit court's decision. See *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993). This court stated by order dated November 7, 2011, that we had previously ordered Grube to file a statement on transcript within fourteen days, and no statement had been filed. We therefore ordered this appeal to proceed without transcripts and reiterated previous admonitions that missing transcripts would support the circuit court's findings of fact and discretionary decisions. Accordingly, we affirm the court's discretionary decisions regarding habeas relief, appointment of counsel, waiver of transcript fees, and child support.

¶9 We have not addressed every sub-argument that Grube has raised. Appellate courts need not address poorly developed or patently meritless arguments. See *State v. Waste Mgmt. of Wis., Inc.*, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978). We will also not consider arguments raised for the first time

³ Grube violates WIS. STAT. RULE 809.19(2) (2009-10), which provides that an appellant's brief shall include a short appendix containing, at a minimum, the findings or opinions of the circuit court, and limited portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

in the reply brief. *Northwest Wholesale Lumber v. Anderson*, 191 Wis. 2d 278, 294 n.11, 528 N.W.2d 502 (Ct. App. 1995).

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2009-10).

