

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 28, 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. 2011AP2429

Cir. Ct. No. 2011SC6794

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

NORTHPORT APARTMENTS CORPORATION,

PLAINTIFF-RESPONDENT,

v.

ROBERT E. CLARK,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dane County:
PETER ANDERSON, Judge. *Affirmed.*

¶1 LUNDSTEN, P.J.¹ Robert Clark appeals a judgment for eviction entered September 30, 2011. After taking evidence, the circuit court found that

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2009-10). All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

Clark left his apartment at 1702 Northport Drive in the City of Madison, walked across the street, and delivered heroin to a police informant. The court found that this activity constituted a public nuisance, and granted plaintiff's demand for eviction. Clark argues that the circuit court improperly relied on a person who is not credible. I reject the argument, and affirm the circuit court.

¶2 The circuit court heard evidence supporting a finding that Clark was dealing drugs out of his apartment. The evidence, viewed most favorably to the circuit court's fact finding, showed that police arranged for an informant to meet up for a drug buy across the street from Clark's apartment, searched the informant and found no drugs, observed the informant meet with Clark, and then searched the informant afterward and found heroin.

¶3 Clark's brief does not contain developed legal argument. He complains that the informant was not credible. However, more specifically, Clark seems to be arguing that the circuit court should not have found that Clark delivered heroin to the informant because the informant, who Clark argues was not trustworthy, might have secretly obtained the heroin from a different source. This is a challenge to the circuit court's fact finding. Clark, however, does not address the standard of review for factual findings, much less apply that standard to the evidence here. I may reject arguments that are unsupported by adequate factual and legal citations or that are otherwise undeveloped. See *Grothe v. Valley Coatings, Inc.*, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463 (lack of record citations); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments). While courts 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 search 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). Because Clark has failed to develop his argument legally and factually, I reject it and affirm the circuit court on that basis.

¶4 Although I affirm the circuit court for the reason stated above, I choose to briefly explain why Clark's argument has no merit. Clark is challenging a factual inference that the informant must have obtained heroin from Clark. Clark merely suggests that the informant might not be reliable because the police indicated their own distrust by, for example, searching the informant before and after the contact with Clark. This argument is illogical. The police activity Clark complains about *supports* the circuit court's finding that the informant obtained the heroin from Clark.

¶5 Moreover, I may reverse a factual finding only if it is clearly erroneous. *See Noll v. Dimiceli's, Inc.*, 115 Wis. 2d 641, 643, 340 N.W.2d 575 (Ct. App. 1983). Clark suggests no valid reason why the circuit court's finding that he delivered heroin to the informant is clearly erroneous, and my independent review of the record shows there is no such reason.

¶6 Accordingly, I affirm the circuit court.

By the Court.—Judgment affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)4.

