

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 16, 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. 2011AP2676
STATE OF WISCONSIN**

Cir. Ct. No. 2009CV229

**IN COURT OF APPEALS
DISTRICT III**

WARREN SLOCUM,

PLAINTIFF-APPELLANT,

v.

TOWN OF STAR PRAIRIE BOARD OF REVIEW,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for St. Croix County:
HOWARD W. CAMERON, Judge. *Affirmed.*

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

¶1 PER CURIAM. Warren Slocum, pro se, appeals an order dismissing his appeal of a property tax assessment. Slocum argues the circuit court erred by dismissing the action as untimely. Slocum also intimates the circuit court was biased against him. We reject these arguments and affirm the order.

¶2 On June 23, 2008, Slocum filed an objection to his 2008 property tax assessment with the Town of Star Prairie. After a hearing, the Board of Review sustained the tax assessment and issued its notice on June 26, 2008. On January 15, 2009, Slocum submitted a “Complaint and Summons Appeal of Property Tax Assessment” to the circuit court. Although that submission was not accepted for filing, his complaint and summons were ultimately filed on February 13, 2009. The court granted the Board’s motion to dismiss the action as untimely, and this appeal follows.

¶3 A property owner can appeal a Board of Review decision in three ways: (1) by certiorari review under WIS. STAT. § 70.47(13)¹; (2) by filing a written complaint with the department of revenue pursuant to WIS. STAT. § 70.85; or (3) by paying the tax and filing a claim against the taxation district to recover any amount of property tax imposed as a result of the excessive assessment pursuant to WIS. STAT. § 74.37(2)(a). The department of revenue option is not at issue in this appeal.

¶4 Slocum contends his complaint was timely filed as an excessive assessment action under WIS. STAT. § 74.37. We are not persuaded. A “claim” for an excessive assessment must be served on the municipality by January 31st of the year the tax is payable. WIS. STAT. § 74.37(2)(b)5. The claim must: (1) be in writing; (2) state the alleged circumstances giving rise to the claim; (3) state as accurately as possible the amount of the claim; and (4) be signed by the claimant or the claimant’s agent. *Id.* If the claim is “disallowed” by the municipality, the

¹ All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

aggrieved party then has ninety days from notice of the disallowance to commence a circuit court action. To “disallow” a claim under this section means either to deny the claim in whole or in part or to fail to take final action on the claim within ninety days after its filing.

¶5 As the Board correctly points out, the appellate record does not include any document establishing that Slocum filed a claim with the municipality. In his reply brief, Slocum asserts he filed an excessive assessment claim with the Star Prairie Board of Review clerk on September 20, 2008, and includes a copy of that document in the appendix to his reply brief. The appellant, however, bears the responsibility of ensuring that the record includes all documents pertinent to the issues raised on appeal. *See Schaidler v. Mercy Med. Ctr. of Oshkosh, Inc.*, 209 Wis. 2d 457, 469, 563 N.W.2d 554 (Ct. App. 1997). Because the document does not appear in the record, we cannot consider it in this appeal. *See Jenkins v. Sabourin*, 104 Wis. 2d 309, 313-14, 311 N.W.2d 600 (1981).

¶6 In any event, no claim or action for an excessive assessment may be brought or maintained under WIS. STAT. § 74.37 if the property assessment for the same year is contested under WIS. STAT. § 70.47(13). WIS. STAT. § 74.37(4)(c). Here, Slocum did not mention § 74.37 in his complaint, and on appeal, he repeatedly describes his action as a “certiorari action.” Because Slocum has effectively conceded he filed a certiorari action, he is precluded from seeking redress under § 74.37 for the same contested year.

¶7 We conclude that Slocum’s complaint sought certiorari review of the Board’s determination, as provided under WIS. STAT. § 70.47(13). Under that statute, Slocum’s complaint had to be filed within ninety days after receiving notice of the Board’s determination. The court found that Slocum received the

notice on or about June 26, 2008. Even had the circuit court clerk accepted Slocum's January 15, 2009 complaint for filing, his complaint was filed long after the statute of limitations expired. We therefore affirm the circuit court's dismissal of Slocum's action.

¶8 To the extent Slocum contends the circuit court failed to consider the merits of his challenge to the assessment, the court did not have to consider his substantive allegations because the action was dismissed as untimely. Slocum further intimates that the circuit court has indicated a "lack of impartiality" based on its "flawed justification for dismissal" of this case. As noted above, the suit was properly dismissed as a certiorari action under WIS. STAT. § 70.47(13). Moreover, "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994).

By the Court.—Order affirmed.

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

