COURT OF APPEALS
DECISION
DATED AND FILED

December 22, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

No. 98-2699

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

CITY OF MILWAUKEE,

PLAINTIFF-RESPONDENT,

v.

DANIEL E. HOLMAN,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: RICHARD J. SANKOVITZ, Judge. *Affirmed.*

SCHUDSON, J.[1] Daniel E. Holman, *pro se*, appeals from a default judgment convicting him of "Snipe Advertising," in violation of § 244-18 of the MILWAUKEE CODE OF ORDINANCES. Holman claims that the circuit court

[1] This appeal is decided by one judge pursuant to § 752.31(2), STATS.

erred in ordering that a "no contest plea" be entered on his behalf after he failed to appear for his August 19, 1998 jury trial. This court affirms.

The facts relevant to this appeal begin with Holman's appeal from his previous judgment of conviction for this "Snipe Advertising" violation. On March 10, 1998, this court reversed Holman's previous judgment of conviction and remanded the matter to the circuit court with instructions that the circuit court grant Holman's request for a jury trial. *See* ***City of Milwaukee v. Holman***, No. 97-2725, unpublished slip op. (Wis. Ct. App. Mar. 10, 1998).

According to the circuit court judgment roll,[2] on May 8, 1998, following this court's remand, Holman appeared at a scheduling conference before the Honorable Jean DiMotto. The case was then scheduled for a June 23, 1998 jury trial. On June 23, 1998, Holman again appeared in court. According to the record:

> [the] city and Defendant [were] ready to proceed to trial [that] morning, however, both [the city attorney] and the police officer witness [were] unavailable to appear in the afternoon. Due to these circumstances[,] and with no objection by the defendant, the jury trial [was] rescheduled. Parties [were] advised that as of 08-01-98 this case [would] be assigned to Judge Sankovitz, Branch 29. Case adjourned for a jury trial to 8-19-98 at 9:00 AM before Branch 29.

On August 19, 1998, Holman failed to appear. According to the assistant city attorney:

> After waiting a substantial amount of time, the court had a Milwaukee County Sheriff Deputy ascertain whether Mr.

[2] Holman has failed to provide this court with transcripts of the proceedings that took place following this court's March 20, 1998 decision. Consequently, this court must rely on the incomplete record and the circuit court judgment roll.

> Holman was in custody. The court was informed … that the defendant was in custody on another matter ... and that Mr. Holman had [had] the opportunity to be released in that matter, but refused to sign the personal recognizance bond."[3]

(Footnote added.) As a result, the court entered a "no contest plea" on Holman's behalf, found him guilty by default and ordered a $61.50 forfeiture, including court costs and surcharges. Holman then filed this appeal.

On appeal, Holman argues *inter alia* that the circuit court erred in entering a "no contest plea" on his behalf and in entering the default judgment.[4] He claims that he was unaware of both the transfer of his case to Judge Sankovitz and of the August 19 trial date. This court rejects his claims.

Holman's brief fails to meet the minimum standards of appellate practice. *See* ***State v. Pettit***, 171 Wis.2d 627, 646, 492 N.W.2d 633, 642 (Ct. App. 1992); *see also* RULE 809.19(1)(e), STATS. Notably absent are record references to support his statement of facts, and law to support his claims of error. *See* ***Nelson v. Schreiner***, 161 Wis.2d 798, 804, 469 N.W.2d 214, 217 (Ct. App. 1991) ("Section 809.19(1)(d), STATS., calls for appropriate references to record, and this court need not sift the record for facts to support [appellant's] contentions."); *see*

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[3] Holman disputes this representation of the facts, but given his failure to provide this court with the record of this proceeding, this court must accept the City's representation. *See* ***Fiumefreddo v. McLean***, 174 Wis.2d 10, 27, 496 N.W.2d 226, 232 (Ct. App. 1993) (given an incomplete record, this court will assume record supports facts essential to sustain circuit court's decision).

[4] Holman also alleges that the City Attorney's office took advantage of him, that the assistant city attorney should have produced him from the Milwaukee County Jail, and that he did not refuse to sign his personal recognizance bond in order to avoid his August 19 jury trial for the municipal violation. Because the import and relevance of these allegations are unclear, we reject them as insufficiently developed. *See* ***Barakat v. DHSS***, 191 Wis.2d 769, 786, 530 N.W.2d 392, 398 (Ct. App. 1995) (reviewing court need not address "amorphous and insufficiently developed" arguments).

also ***Pettit***, 171 Wis.2d at 646, 492 N.W.2d at 642 ("Arguments unsupported by references to legal authority will not be considered."). In addition, Holman has failed to provide this court with transcripts of the proceedings relevant to his argument. *See* ***id.*** While this court provides some flexibility for *pro se* litigants, it does not walk them through all the procedural requirements or point them to the proper substantive law. *See* ***Waushara County v. Graf***, 166 Wis.2d 442, 451, 480 N.W.2d 16, 20 (1992). A *pro se* litigant's brief must "'state the issues, provide the facts necessary to understand them, and present an argument on the issues.'" ***Id.***

Moreover, Holman's factual assertion that he was unaware of the August 19, 1998 jury trial date is belied by the record. *See* ***Nelson***, 161 Wis.2d at 804, 469 N.W.2d at 217 ("Assertions of fact that are not part of the record will not be considered."). As noted above, the judgment roll reveals that: (1) Holman was present at the scheduled June 23, 1998 trial date; (2) he did not object to the rescheduling of the trial; (3) the court informed him that the case was being transferred to Judge Sankovitz; and (4) the new trial date was August 19, 1998. Furthermore, upon his arrest and incarceration, Holman could have requested a continuance. Instead, apparently he did nothing.

Finally, this court concludes that under § 800.09, STATS., the court properly entered default judgment. The procedures for forfeiture actions brought in the circuit court are found in §§ 66.119, 66.12, and 800.09, STATS. Section 66.12 provides that a circuit court shall render judgment as provided in § 800.09. Section 800.09(2)(b) provides, in pertinent part: "If the person charged fails to appear personally or by an attorney at the time of the hearing of the case, the defendant may be deemed to have entered a plea of no contest." Thus, § 800.09 provides for the entry of judgment on the non-appearance of a defendant in a civil forfeiture case. Further, upon entry of the default judgment, a defendant's relief is

not an appeal to this court, but rather, a motion for relief from judgment under § 806.07, STATS.[5] Nothing in this court's decision precludes Holman from bringing such a motion. Accordingly, this court affirms the circuit court judgment.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

[5] Section 806.07, STATS., provides:

> **806.07 Relief from judgment or order. (1)** On motion and upon such terms as are just, the court may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:
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> (a) Mistake, inadvertence, surprise, or excusable neglect;
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> (b) Newly-discovered evidence which entitles a party to a new trial under s. 805.15(3);
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> (c) Fraud, misrepresentation, or other misconduct of an adverse party;
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> (d) The judgment is void;
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> (e) The judgment has been satisfied, released or discharged;
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> (f) A prior judgment upon which the judgment is based has been reversed or otherwise vacated;
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> (g) It is no longer equitable that the judgment should have prospective application; or
>
> (h) Any other reasons justifying relief from the operation of the judgment.
>
> **(2)** the motion shall be made within a reasonable time, and, if based on sub. (1) (a) or (c), not more than one year after the judgment was entered or the order or stipulation was made. A motion based on sub. (1) (b) shall be made within the time provided in s. 805.16. A motion under this section does not affect the finality of a judgment or suspend its operation. This section does not limit the power of a court to entertain an independent action to relieve a party from judgment, order, or proceeding, or to set aside a judgment for fraud on the court.