

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**November 13, 2013**

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. 2013AP710**

**Cir. Ct. No. 2013FO88**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**CITY OF WEST ALLIS,**

**PLAINTIFF-RESPONDENT,**

**v.**

**BRANDON J. MICHAELS,**

**DEFENDANT-APPELLANT.**

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APPEAL from an order of the circuit court for Milwaukee County:  
CAROLINA STARK, Judge. *Appeal dismissed.*

¶1 CURLEY, P.J.<sup>1</sup> Brandon Michaels, *pro se*, appeals the dismissal of his appeal of a municipal court conviction for disorderly conduct. Because

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2011-12). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Michaels failed to properly notify the City of West Allis of his appeal to the trial court as required by WIS. STAT. § 800.14, this court concludes that the trial court appropriately dismissed his appeal.

### **BACKGROUND**

¶2 Following his January 15, 2013 conviction for disorderly conduct, Michaels filed, on February 4, 2013, a notice of appeal to have the matter reviewed by the trial court. A pretrial conference was scheduled for March 8, 2013.

¶3 At the pretrial conference, the attorney for the City of West Allis moved for dismissal of Michaels' appeal, contending that Michaels never served the city attorney's office with notice of his appeal as required by WIS. STAT. § 800.14. The trial court heard argument regarding the City's motion at the pretrial conference, and the attorney for the City explained that the only notice the City received was from the Milwaukee County circuit court notifying the City of the pretrial conference. According to the attorney for the City, the City never received Michaels' notice of appeal. The trial court explained to Michaels that WIS. STAT. § 800.14 required him to file his notice of appeal "with the opposing party, in this case the City of West Allis, and the municipal court," which, it explained, "are two different things."

¶4 Michaels provided no documentation in response to the City's motion. He did, however, tell the trial court that he called the clerk of courts and that he followed all of the steps that the clerk guided him through over the phone. Michaels testified that he gave one notice of appeal to the clerk of courts, and gave

another to the West Allis police station. When the trial court asked whether Michaels might have filed any other documents with the city attorney's office, Michaels responded, "I'm not sure, but I know – I know I took the proper steps of like letting everybody know, and I even got assistance from the clerk."

¶5 Additionally, Michaels put on the testimony of the friend who "actually went in there and actually personally handed" the notices of appeal on his behalf. Michaels' friend explained that she took Michaels' notice of appeal to the police department, not the city attorney's office.

¶6 The trial court granted the City's motion, finding that Michaels did not file a notice of appeal "with the opposing party in this case, the City of West Allis, within the 20-day requirement under [WIS. STAT. §] 800.14." The trial court explained its reasoning to Michaels:

I – I don't doubt that you gave a written notice to, it sounds like, the police department and the municipal court.

But you did not give a copy ... to the City of West Allis, the City Attorney's office; and that's one of the steps that the law requires for you to have an appeal in circuit court; and that wasn't done; and so the decision is to allow or grant the City of West Allis's motion for dismissal.... I'm sorry, I know this can be frustrating, but the law does not allow me any other options.

This is what the law requires me to do.

¶7 Michaels appeals.

#### ANALYSIS

¶8 Because the trial court dismissed Michaels' appeal for failure to comply with WIS. STAT. § 800.14, the only issue before this court is whether the trial court properly granted the City of West Allis's motion to dismiss. Therefore,

this court will not address Michaels' arguments on appeal regarding the merits of his conviction for disorderly conduct.

¶9 On appeal, Michaels argues that the trial court erred in dismissing his claims because he did in fact file a notice of appeal with the City of West Allis. Unfortunately, Michaels presents no record citation, nor any documentation supporting his contention. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (1992) (court of appeals may decline to review inadequately developed arguments).

¶10 The Wisconsin Constitution provides in relevant part: "Except as otherwise provided by law, the circuit court shall have original jurisdiction in all matters civil and criminal within this state and such appellate jurisdiction in the circuit as the legislature may prescribe by law." WIS. CONST. art. VII, § 8. Accordingly, a trial court's jurisdiction over an appeal from a municipal court "can only be acquired ... under the rules of appealability established by the legislature." See *Walford v. Bartsch*, 65 Wis. 2d 254, 258, 222 N.W.2d 633 (1974). "In order for there to be a right of appeal some statute must grant it and a party seeking to appeal must follow the method prescribed in the governing statute." *City of Mequon v. Bruseth*, 47 Wis. 2d 791, 794, 177 N.W.2d 852 (1970). Here, that statute is WIS. STAT. § 800.14. Whether Michaels complied with § 800.14 when seeking to appeal presents a question of law we review *de novo*. See *Welin v. American Family Mut. Ins. Co.*, 2006 WI 81, ¶16, 292 Wis. 2d 73, 717 N.W.2d 690 (the interpretation and application of statutes and case law to facts of a particular case present questions of law which appellate courts decide *de novo*).

¶11 WISCONSIN STAT. § 800.14 grants trial courts appellate jurisdiction over municipal court decisions. It states that an “appellant shall appeal by giving the municipal judge *and other party* written notice of appeal within 20 days after the judgment or decision.” See § 800.14(1) (emphasis added). The statute is clear in its requirement that the appellant must give written notice to the other party. As such, here, the trial court was without jurisdiction to review the municipal court’s judgments because Michaels failed to give the required notice of appeal to the City of West Allis. Failure to comply with the statutory procedure deprived the court of jurisdiction to conduct the review. See *Walford*, 65 Wis. 2d at 258. Thus, the trial court properly dismissed Michaels’ appeal.

¶12 While we recognize that Michaels was proceeding *pro se* in this action, and that he did attempt to serve the correct party when he sent his notice of appeal to the West Allis police department, his self-representation came with the responsibility to comply with relevant rules of procedural and substantive law. See *Waushara Cnty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). The right to proceed *pro se* does not grant “a license not to comply with relevant rules of procedural and substantive law.” *Id.* (citation omitted). Pro se appellants are bound by the same rules that apply to attorneys. See *id.* Accordingly, the procedural statutes relevant to the trial court’s appellate jurisdiction apply to Michaels just as they apply to any litigant—represented or not.

¶13 Again, this court’s jurisdiction in an appeal such as this is confined only to the jurisdictional question itself. See *Ryde v. Dane Cnty. DSS*, 76 Wis. 2d 558, 564, 251 N.W.2d 791 (1977). Because we conclude that the trial court correctly held that it had no jurisdiction, our only course of action is to dismiss Michaels’ appeal. See *Libby v. Central Wisconsin Trust Co.*, 182 Wis. 599, 604, 197 N.W. 206 (1924) (Because “[t]he circuit court from which the appeal was

taken ... had no jurisdiction of the action, nothing remains to be done except to dismiss the appeal.”).

*By the Court.*—Appeal dismissed.

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

