

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 6, 2014

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 Nos. 2013AP1593
2013AP1594
STATE OF WISCONSIN**

**Cir. Ct. Nos. 2013FO21
2013FO22**

**IN COURT OF APPEALS
DISTRICT IV**

**2013AP1593:
CITY OF LANCASTER,**

PLAINTIFF-RESPONDENT,

V.

TODD A. CHOJNOWSKI,

DEFENDANT-APPELLANT.

**2013AP1594:
CITY OF LANCASTER,**

PLAINTIFF-RESPONDENT,

V.

ERIC T. CHOJNOWSKI,

DEFENDANT-APPELLANT.

APPEALS from judgments of the circuit court for Grant County:
ROBERT P. VANDEHEY, Judge. *Affirmed.*

¶1 SHERMAN, J.¹ In these consolidated appeals,² Todd Chojnowski and Eric Chojnowski, pro se, appeal from separate civil forfeiture convictions for disorderly conduct contrary to CITY OF LANCASTER ORDINANCE ch. 9.01.

¶2 In December 2012, the Chojnowskis were each arrested for disorderly conduct, which stemmed from an altercation between themselves and other members of their family. In January 2013, the Chojnowskis were cited with violations of ch. 9.01, disorderly conduct. The Chojnowskis plead not guilty and moved the circuit court to dismiss their citations. The court denied their motions and entered civil forfeitures against each.

¶3 The Chojnowskis contend on appeal, as they did before the circuit court, that the City of Lancaster was prohibited by WIS. STAT. 968.085(8) from citing them with violations of ordinance ch. 9.01.

¶4 WISCONSIN STAT. § 968.085(8) provides: “A law enforcement officer may not issue a citation to a person for an offense if the officer is required to arrest the person for that offense under s. 968.075(2).” The Chojnowskis argue that WIS. STAT. § 968.075(2) required their arrest as a result of the disturbance which gave rise to their citations in this case, thus, they could not be issued citations for violation of ordinance ch. 9.01. The City of Lancaster points out that § 968.085(1) defines “citation” for purposes of § 968.085 as “a directive, issued by a law enforcement officer, that a person appear in court and answer criminal charges.” The City argues that prohibition against issuing defendants citations in

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

² We consolidated these appeals on our own motion.

§ 968.085(8) “applies to citations issued for criminal charges” and that because the ordinance violation the Chojnowskis were cited with was a civil forfeiture and not a criminal charge, the prohibition against citation issuance in § 968.085(8) does not apply in this case. The Chojnowskis did not file a reply brief in an attempt to dispute the City’s argument. Accordingly, they have conceded that point. *See Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994) (matters not refuted in reply brief are deemed admitted).

¶15 The Chojnowskis do not raise any other arguments challenging their civil forfeitures. Accordingly, I affirm.

By the Court.—Judgments affirmed.

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

