

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 20, 2015

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. 2014AP2266

Cir. Ct. No. 2011CV627

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

GREG GRISWOLD,

PETITIONER-APPELLANT,

v.

TOWN OF CROSS PLAINS, TOWN OF CROSS PLAINS 2010 BOARD OF REVIEW, GREG HYER, ANNE HERGER, JEFF BAYLIS, VERA RILEY, GREG HAACK, TERRY KURTH, BRAD CUPP, JAMES DANIELSON AND LEE DEGROOT,

RESPONDENTS-RESPONDENTS.

APPEAL from a judgment and orders of the circuit court for Dane County: FRANK D. REMINGTON, Judge. *Affirmed.*

Before Lundsten, Higginbotham and Sherman, JJ.

¶1 PER CURIAM. Greg Griswold appeals a judgment and orders entered by the circuit court after we remanded the case following a previous

appeal. Griswold argues that all adverse rulings entered against him while the circuit court case was pending before Judge John Albert should be vacated, that the circuit court erred in entering an order requiring him to post a bond as a condition of appeal, and that the circuit court's award of attorney fees incurred by the Town of Cross Plains was excessive and unreasonable. For the reasons discussed below, we affirm the judgment and orders of the circuit court.

BACKGROUND

¶2 Griswold has pursued several circuit court actions against the Town of Cross Plains challenging property tax assessments. On November 14, 2013, we issued a per curiam decision affirming a circuit court order that denied reconsideration of an order for sanctions against Griswold, as well as Judge Albert's decision not to recuse himself from the case. *Griswold v. Town of Cross Plains*, Nos. 2012AP26 and 2012AP1380, unpublished slip op. (WI App Nov. 14, 2013). We concluded that the appeal was frivolous, and remanded the case to the circuit court to determine the proper amount of costs and reasonable attorney fees to be awarded to the Town pursuant to WIS. STAT. RULE 809.25(3) (2013-14).¹ *Id.*, ¶¶9-11.

¶3 After this case was remanded, Griswold filed a motion that, once again requested the recusal of Judge Albert. Judge Albert then transferred the case to another judge. With Judge Frank Remington presiding, the circuit court awarded \$9,500 in attorney fees to the Town and entered a judgment against

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Griswold in that amount. Griswold filed a notice of appeal. The Town filed a motion for relief pending appeal in the circuit court, seeking relief in the form of an order requiring Griswold to post a bond as a condition of appealing the award of attorney's fees. The circuit court entered an order granting the motion, and also issued an injunction against Griswold and in favor of the Town and other named defendants, prohibiting Griswold from filing further actions against them until Griswold has satisfied all judgments against him in cases involving those defendants. Griswold then filed an additional notice of appeal.

DISCUSSION

¶4 Griswold first argues on appeal that all adverse rulings entered against him prior to Judge Albert's transfer of the case to Judge Remington should be vacated. Griswold cites a string of non-binding cases from other jurisdictions and asserts that he believes his position on the issue to be a matter of first impression in Wisconsin. We, however, believe his argument to be one that defies common sense. Moreover, Griswold provides no binding legal precedent or factual support for his position that vacating prior adverse rulings is warranted under the circumstances. Therefore, we reject the argument because it is meritless.

¶5 Next, Griswold argues that the circuit court erroneously exercised its discretion when it issued an order requiring him to post a bond as a condition of pursuing an appeal. We addressed this issue in our order dated January 27, 2015, in which we denied the respondents' motion to dismiss the appeal. At the time we issued the order, Griswold had not yet posted any bond, and nothing in his appellate briefs or the record indicates that he has posted a bond since then. Nevertheless, we are now deciding the appeal, consistent with our conclusion in

our January 27 order that “should Griswold fail to comply with the order to post bond, nothing in the order divests this court of jurisdiction over this appeal.” Since he has not paid any bond, and since his appeal has nonetheless been permitted to proceed, we fail to see how Griswold has suffered any harm as a result of the circuit court order directing him to post a bond as a condition of appeal. Thus, we dismiss Griswold’s arguments on the issue as moot. *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶3, 233 Wis. 2d 685, 608 N.W.2d 425 (“[a]n issue is moot when its resolution will have no practical effect on the underlying controversy” and, generally, moot issues will not be considered on appeal).

¶6 Finally, we turn to Griswold’s argument that the circuit court’s award of attorney fees was excessive and unreasonable. We review an award of attorney fees for erroneous exercise of discretion, giving deference to the circuit court’s decision because the circuit court is familiar with local billing norms and will likely have witnessed first-hand the quality of the service rendered by counsel. *Kolupar v. Wilde Pontiac Cadillac, Inc.*, 2004 WI 112, ¶22, 275 Wis. 2d 1, 15, 683 N.W.2d 58. Griswold fails to identify anything in the record that would demonstrate an erroneous exercise of discretion on the part of the circuit court. Instead, he relies on conclusory assertions and personal attacks on the Town’s attorney, Mark Hazelbaker. Griswold argues that, by awarding attorney fees for legal services performed by Hazelbaker on behalf of the Town, when Hazelbaker himself was a named defendant, the circuit court essentially allowed Hazelbaker to be paid for “pro se” work. Griswold argues that Hazelbaker should not be awarded any attorney fees.

¶7 We note, however, that the circuit court did not award any attorney fees directly to Hazelbaker. Rather, the court granted judgment in favor of the

Town and against Griswold. That is, Griswold is required to pay the Town amounts the Town owes Hazelbaker. The issue before the circuit court on remand, and the issue now before us for review, is whether the fees *incurred by the Town* for legal services related to the frivolous appeal were reasonable. Despite Griswold's assertion that the fees generated by Hazelbaker were "exaggerated," he fails to rebut the information contained in Hazelbaker's fee affidavit or to offer any factual or legal support as to why he believes any specific entry or invoice to be unreasonable. Accordingly, we are not persuaded that the circuit court erroneously exercised its discretion in entering the fee award in this case.

By the Court.—Judgment and orders affirmed.

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

