



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I/IV

July 15, 2015

To:

Hon. Jane V. Carroll
Circuit Court Judge
Civil/Small Claims Court
901 N. 9th St., Rm 409
Milwaukee, WI 53233

Amy Wochos
Register in Probate
Milwaukee County Courthouse
901 N. 9th St., Rm. 207
Milwaukee, WI 53233

Bradley S. Foley
Gutglass, Erickson, Bonville, & Larson
735 N. Water St., Ste. 1400
Milwaukee, WI 53202-4106

Dewey Benton Martin
Corporation Counsel
901 N. 9th St., Ste. 303
Milwaukee, WI 53233

Department on Aging
1220 W. Vliet St. #300
Milwaukee, WI 53205

Easter Seals Kindercare of Southern
Wisconsin
2222 S. 114th St.
West Allis, WI 53227

Peter A. Flessas
PO Box 1221
Brookfield, WI 53008-1221

Joan Hollingsworth
2620 W. 64th St.
Chicago, IL 60629

You are hereby notified that the Court has entered the following opinion and order:

2014AP633

In the matter of the guardianship of C. H.: St. Joseph's Hospital v.
Joan Hollingsworth (L.C. # 2013GN647)

Before Blanchard, P.J., Higginbotham and Kloppenburg, JJ.

Joan Hollingsworth, pro se, appeals a circuit court order appointing Easter Seals as guardian of Hollingsworth's father, C.H. Based upon our review of the briefs¹ and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).² We summarily affirm.

In December 2013, St. Joseph's Hospital petitioned the circuit court to appoint Easter Seals as guardian for C.H. and to place C.H. in a protective placement. In January 2014, Hollingsworth filed an objection to the proposed guardianship.

On February 14, 2014, the circuit court held a hearing on the petitions. St. Joseph's, C.H.'s guardian ad litem (GAL), and Hollingsworth appeared at the hearing. Hollingsworth asserted a power of attorney over C.H.'s health care and finances. The GAL informed the court that C.H. did not object to the proposed guardianship and protective placement, and that the GAL believed the proposed guardianship and protective placement were in C.H.'s best interest. The

¹ Milwaukee County has filed the only respondent's brief. The first argument briefed by the County is that the County should not be designated as a respondent in this appeal. We do not reach this issue because the County failed to timely raise it.

By order dated October 17, 2014, we amended the caption to list the County as a respondent in this appeal and directed the County to file a respondent's brief. Also on October 17, 2014, we issued a notification of amended caption, directing the parties to notify us in writing if they objected to the caption. The County neither responded with a written objection as directed by our notification, nor did it move for reconsideration of our order designating it as a respondent within the time contemplated by our rules. *See generally* WIS. STAT. RULE 809.14(2) ("A party adversely affected by a procedural order entered without having had the opportunity to respond ... may move for reconsideration of the order within 11 days after service of the order."). Moreover, it makes little practical sense to brief the issue of the properly designated respondent within the respondent's brief. Because this case has now been fully briefed, we decline to reconsider our designation of the parties to this appeal.

Finally, we note that, in its conclusion, the County requests that this court "reconsider its designation of the County as the active party in such cases going forward." This request is beyond the scope of this appeal and we do not consider it further.

² All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

circuit court found that C.H. is a proper subject for guardianship and protective placement, and that there was no suitable family member to appoint as guardian. The court therefore appointed Easter Seals as guardian of C.H.'s person and finances, and ordered protective placement for C.H.

Hollingsworth argues that the circuit court should have appointed Hollingsworth, rather than Easter Seals, as guardian of C.H.'s person and finances. However, Hollingsworth fails to develop coherent arguments that apply relevant legal authority to the facts of record, and instead claims generally that counsel made false statements at the guardianship and protective placement hearing. "A party must do more than simply toss a bunch of concepts into the air with the hope that either the [circuit] court or the opposing party will arrange them into viable and fact-supported legal theories." *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d 39 (Ct. App. 1999). This court need not consider arguments that either are unsupported by adequate factual and legal citations or are otherwise undeveloped. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992). While we make some allowances for the failings of parties who, like Hollingsworth, appear pro se, "[w]e cannot serve as both advocate and judge," *Pettit*, 171 Wis. 2d at 647, and we will not scour the record to develop arguments for an appellant, see *Jackson*, 229 Wis. 2d at 337. Here, Hollingsworth fails to develop her arguments legally or to support them factually. Therefore, we affirm the circuit court on that basis.

Although we affirm the circuit court for the reason stated above, we choose to briefly explain why Hollingsworth's arguments, as best we understand them, lack merit. Hollingsworth argues that the evidence at the hearing did not support the court's findings. Specifically, Hollingsworth contends that: (1) Hollingsworth has a valid power of attorney over C.H.'s health care and finances; (2) the court should not have considered the GAL's representation of C.H.'s

wishes because C.H. has been declared incompetent; (3) counsel for St. Joseph's falsely stated that Hollingsworth had taken C.H. out of the nursing home and into the community; (4) the GAL falsely stated that C.H. had confronted Hollingsworth about mismanagement of C.H.'s finances; and (5) the circuit court should have disregarded a letter submitted by one of C.H.'s other daughters, and should have considered letters by Hollingsworth's character references.

As to Hollingsworth's claim that C.H. designated Hollingsworth power of attorney over C.H.'s health care and finances, C.H. does not explain why that power of attorney would survive the circuit court's decision to revoke any prior powers of attorney for good cause based on the court's finding that the agent is no longer suitable. *See* WIS. STAT. § 54.46(2)(b) and (c). Moreover, Hollingsworth has not developed any argument challenging the court's finding of good cause to revoke prior powers of attorney executed by C.H. Accordingly, we reject this argument on the merits. As to Hollingsworth's argument that the court should not have considered C.H.'s wishes as represented to the court by the GAL, we note that WIS. STAT. § 54.40(3) requires a GAL to consider the proposed ward's wishes and to advocate for the best interests of the proposed ward. The remainder of Hollingsworth's arguments merely point to evidence that, in Hollingsworth's view, might support appointing her as guardian. The County responds that the court properly considered the totality of circumstances, and weighed the evidence presented, to determine that Easter Seals is the appropriate guardian. We agree.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE
809.21.

Diane M. Fremgen
Clerk of Court of Appeals