COURT OF APPEALS DECISION DATED AND FILED

July 12, 2016

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. 2015AP1912

Cir. Ct. No. 2012FA005081

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT I

STEPHANIE M. PRZYTARSKI, P/K/A STEPHANIE M. KRAMSCHUSTER,

PETITIONER-APPELLANT,

V.

TED B. VALLEJOS,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County: FREDERICK C. ROSA, Judge. *Affirmed*.

Before Curley, P.J., Kessler and Brennan, JJ.

¶1 PER CURIAM. Stephanie Przytarski, *pro se*, appeals the June 17, 2015 findings and order[1] of the Honorable Frederick C. Rosa[2] stating that "[t]he order for support entered by AFCC Rauly Sandoval, on June 13, 2013, remains in effect and was not modified at the subsequent hearings." On June 13, 2013, Court Commissioner Sandoval ordered that Przytarski pay child support in the amount of $524 per month, effective February 1, 2013, to the father of her child, Ted Vallejos. Przytarski contends that there is no valid child support order because the June 13, 2013 order of the court commissioner "dissolved as if it never existed" when, on November 14, 2014, Judge Rosa ruled on her motion for *de novo* review[3] without addressing child support.

¶2 We conclude that Przytarski abandoned her challenge to the June 13, 2013 child support order. The record conclusively shows that although she checked the box for a *de novo* review of the child support (as well as the custody

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[1] Przytarski's notice of appeal also included the August 27, 2015 ruling by the Honorable Paul R. Van Grunsven. She then moved to "remove" the August 27, 2015 ruling from the appeal. On Sept. 22, 2015, prior to the transmittal of the record in this case, this court construed her motion "as one to amend the notice of appeal" and granted it. It ordered "that the notice of appeal is amended to state that the appeal is taken only from the June 17, 2015 order, and the appeal is limited accordingly." The fact that a prior order of this court granted Przytarski's motion to amend the notice of appeal to state that the appeal is taken only from the June 17, 2015 order does not restrain this court from considering the other documents contained in the record, such as the transcript of the August 27, 2015 hearing in which Przytarski's post-judgment motion was denied. *See* ***Metro. Greyhound Mgmt. Corp. v. Wisconsin Racing Bd.***, 157 Wis. 2d 678, 698-99, 460 N.W.2d 802 (Ct. App. 1990) ("a motion for reconsideration that challenges the trial court's decision can hone its analysis, and thus assist appellate review").

[2] We do not usually name the presiding judge in the body of our decisions, but here we do so for clarity in distinguishing between the many orders and judicial officers involved.

[3] Pursuant to WIS. STAT. § 757.69(8) (2013-14), a litigant is entitled to "a new hearing, not merely a review of whatever record may have been made before the family court commissioner." *See* ***Stuligross v. Stuligross***, 2009 WI App 25, ¶12, 316 Wis. 2d 344, 763 N.W.2d 241. All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

and placement issues), she never once even mentioned child support, much less argued for modification of it, in the seventeen months, ten or more motions, and eight hearings held between filing her motion for a *de novo* review and the trial court's final decision on the *de novo* motion on November 14, 2014. Additionally, when Judge Rosa concluded the fifth and final day of the court trial on Przytarski's motion for *de novo* review and Judge Rosa failed to mention child support, Przytarski never objected or asked for a ruling on child support. Issues pled but not argued before the trial court are deemed abandoned. ***Eckes v. Keith***, 143 Wis. 2d 209, 210 n.1, 420 N.W.2d 417 (Ct. App. 1988). *See also* **Santiago v. *Ware***, 205 Wis. 2d 295, 311 n.10, 556 N.W.2d 356 (Ct. App. 1996). Consequently, we affirm the decision of June 17, 2015. The June 13, 2013 child support order stands.

BACKGROUND

¶3 Przytarski is, by any measure, highly litigious. We need not describe all of her lawsuits, motions, or appeals relating to this paternity matter because this appeal is solely taken from a child support order. Przytarski and Vallejos have a child who was born August 6, 2006. A paternity action was filed in Waukesha County Circuit Court Case No. 2006PA390. Vallejos was adjudicated the father on January 30, 2007. Przytarski filed multiple motions, and numerous hearings were held in the Waukesha County Circuit Court; the online CCAP court record from Waukesha County is sixty-one pages long. On July 12, 2012, while most of the Waukesha rulings were up on appeal to this court, Waukesha County Circuit Court Judge Lloyd V. Carter granted Przytarski's request to change venue to Milwaukee County. Przytarski raised many issues in

that appeal, some decided in a Summary Disposition on July 24, 2013,[4] and some others in an authored, unpublished decision of the same date,[5] but she did not raise child support. We affirmed all of the orders of the Waukesha County Circuit Court.

¶4 Przytarski continued to file custody and placement motions in Milwaukee County after the change in venue. On December 29, 2012, the Milwaukee County District Attorney filed a criminal complaint charging Przytarski with interference with custody. (*See* Milwaukee County Circuit Court Case No. 2012CF6183.) Ultimately, in May 2013 that case resulted in Przytarski's guilty plea and a no-contact order prohibiting Przytarski from having contact with Vallejos and the child. Other conditions for probation included a mental health evaluation, anger management, and parenting classes.

¶5 On September 13, 2012, Przytarski filed a motion in this case to modify custody and placement that was set before the Milwaukee court commissioner for February 1, 2013. She did not request a child support order. On January 29, 2013, Vallejos filed a motion for modification of custody, placement, and child support. He sought a child support modification as he had sole placement of the child and yet child support was still being deducted under the Waukesha order.

¶6 On February 1, 2013, Assistant Family Court Commissioner Rauly Sandoval held a hearing on Przytarski's motion, but not Vallejos's. Not

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[4] ***State v. Przytarski***, No. 2012AP646, unpublished slip op. (WI App July 24, 2013).

[5] ***State v. Przytarski***, No. 2012AP1413, unpublished slip op. (WI App July 24, 2013).

surprisingly, since she did not seek a child support order, it was not mentioned. Because the Waukesha rulings were then still being appealed, Sandoval put the hearing over without entering any orders. Przytarski filed a motion for a *de novo* review of Sandoval's order of February 1, but did not mention child support in her motion. Przytarski then filed motions for an emergency ex parte placement order and a motion for sanctions, and her parents filed a motion for grandparent visitation.

¶7 On June 13, 2013, Milwaukee County Assistant Family Court Commissioner Rauly Sandoval issued an order on Vallejos' motion for custody, placement, and child support from Przytarski, finding that the criminal case no-contact order was still in effect and placement of the child had been with Vallejos since December 12, 2012. Sandoval ordered Przytarski to pay Vallejos $524 in monthly child support effective February 1, 2013, based on Przytarski's monthly income of $3083.00.

¶8 Przytarski brought a motion for a *de novo* review of Sandoval's June 13, 2013 order and in it she checked the box for review of child support, as well as custody and placement. In support of her request for *de novo* review she filed a four-paragraph "Motion To Review Child Support And To Invalidate The Order Filed 6/13/13," expressing many concerns about placement but making *no mention of child support*. Her *de novo* hearing was set for August 6, 2013, before Judge Rosa.

¶9 While her motion for *de novo* review was awaiting hearing, this court, in a Summary Disposition on July 24, 2013, affirmed the Waukesha orders relating to the appointment of the Guardian ad Litem, placement, filing fees, and a payment schedule for the court-appointed psychologist, and made a finding that

her motions were frivolous. *See* ***State v. Przytarski***, No. 2012AP646, unpublished slip op. (WI App July 24, 2013). In a separate authored decision, we also affirmed orders relating to an order finding her in contempt for violating orders regarding Vallejos' placement, facilitating Skype communication, and joint decision making, and from an order resolving, among other things, her responsibility for outstanding guardian ad litem and psychologist bills. ***State v. Przytarski***, No. 2012AP1413, unpublished slip op. (WI App July 24, 2013).

¶10 Two days later, on July 26, 2013, Przytarski continued to file motions while still awaiting the *de novo* review hearing, which had been set for August 6, 2013. She filed a motion to modify custody and placement, and to supplement a motion she filed back on September 13, 2012. She also filed a motion for contempt relating to an alleged placement issue. In neither motion did she make any mention of child support. There followed motions by Przytarski's parents related to grandparent visitation and the court's decision on those.

¶11 On August 6, 2013, Judge Rosa held the first of five court hearings on Przytarski's *de novo* review of the June 13, 2013 order, as well as seven other motions. Despite the fact that Przytarski represented herself and spoke extensively at the hearing on other issues, she never mentioned child support.

¶12 Subsequently, there followed a series of seven more hearings before the judge or court commissioner at which Przytarski appeared and spoke, but never mentioned child support and never objected to the absence of an order on child support:

- On September 4, 2013, a hearing was held regarding grandparent visitation.

- On October 29, 2013, a court trial was held regarding psychological evaluations of Przytarski, Vallejos, and the child.

- On February 3, 2014, a court trial was held regarding grandparent visitation.

- On May 9, 2014, a hearing was held regarding several motions Przytarski filed, none addressing child support.

- On June 26, 2014, a court trial regarding visitation was held before Judge Rosa, and he signed an order on July 31, 2014, which sets forth the parameters of the grandparents' visitation with the child.

- On October 10, 2014, a court trial was held regarding custody and placement and grandparent visitation. Child support was not addressed.

- On May 21, 2015, a hearing was held before Circuit Court Commissioner David R. Pruhs regarding a motion Przytarski filed to review the primary placement and custody order issued November 14, 2014. Commissioner Pruhs denied Przytarski's motion.

¶13 After five days of court trial on Przytarski's motions for *de novo* review of the June 13, 2013 order, on November 14, 2014, Judge Rosa issued the final findings and an order regarding custody and placement and GAL fees. It

made no mention of child support, and Przytarski failed to object to the omission of child support from the order.[6]

¶14 Przytarski continued to file other motions and objections, and finally, on June 17, 2015, in the order Przytarski appeals from here, Judge Rosa addressed a motion of the Milwaukee County Department of Child Support Enforcement and issued findings and an order that "the order for support entered by AFCC Rauly Sandoval on June 13, 2013, remains in effect and was not modified at the subsequent hearings." Przytarski responded to that on August 13, 2015, by filing a notice of motion and motion for clarification regarding orders for child support issued July 24, 2007; June 13, 2013; and June 17, 2015.

¶15 On August 27, 2015, Judge Van Grunsven conducted a hearing on Przytarski's motion and found that the time for a *de novo* review of the child support orders had run. The circuit court further held:

> Judge Rosa ruled on all this stuff, Ms. Przytarski, in June, and I have a copy of his … November 14, 2014, order, and I don't know why you insist on persistently filing frivolous motions. The motion that you brought is untimely. The Court lacks jurisdiction and competency even to consider the relief. You're asking me to undo orders that were previously put in place. This whole issue has been decided and ruled upon by Judge Rosa.
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> If you persist in filing frivolous motions with this Court, rest assured that any future frivolous filings will be sanctioned by this Court and costs will be awarded. I'm denying your motions outright because the Court finds it lacks competency and jurisdiction by which the hear these.

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[6] We note that although Przytarski did appeal the November 14, 2014 final order, she made no mention of or argument about the absence of a child support order in it. And we affirmed in ***Przytarski v. Vallejos***, No. 2014AP2942, unpublished slip op. (WI App Aug. 27, 2015) and ***Kramschuster v. Przytarski***, No. 2014AP2993, unpublished slip op. (WI App Aug. 27, 2015).

> Furthermore, the Court finds the relief of request has already been ruled upon by Judge Rosa in previous orders of this court.
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> ….
>
> Stop filing this frivolous stuff, and if you file additional frivolous stuff, there will be consequences. The motions are denied.

¶16 On September 14, 2015, Przytarski filed a notice of appeal from the findings and orders filed June 17, 2015, and August 27, 2015.

DISCUSSION

¶17 Przytarski states one issue on appeal, namely, trial court error on June 17, 2015, in confirming that the court commissioner's child support order of June 13, 2013, remained in effect.[7] She argues that because she filed for a *de novo* review of the June 13, 2013 child support order, WIS. STAT. § 757.69(8) required that the trial court conduct a full *de novo* hearing on child support, and because Judge Rosa never addressed child support at any of the many *de novo* hearings, the court erred when it confirmed the June 13, 2013 child support order.

[7] In her reply brief, Przytarski raises, but does not develop, an additional argument for the first time. She argues that the June 13, 2013 order is invalid and there is a pre-existing child support order from Waukesha which is still in effect and entitles her to past support: "There is an existing child support order. The child support order filed July 25, 2007 was not forwarded by Waukesha County upon the order to change venue—*see* R: 252." She is referring to an order from Judge Michael Bohren of that date which, as she admits in the quote, is not part of this record and which orders Vallejos to pay her child support. We will not address this issue because (1) she failed to raise it in her opening brief; and (2) she fails to develop it, admitting it is not part of the record. *See* ***A.O. Smith Corp. v. Allstate Ins. Cos.***, 222 Wis. 2d 475, 588 N.W.2d 285 (Ct. App. 1988) (an issue a party fails to argue in the main appeal brief is deemed abandoned); *and* ***League of Women Voters v. Madison Cmty. Found.***, 2005 WI App 239, ¶19, 288 Wis. 2d 128, 707 N.W.2d 285 (court does not develop parties' arguments for them). It is Przytarski's obligation to put into the record the court record on which she relies. *See* ***State Bank of Hartland v. Arndt***, 129 Wis. 2d 411, 423, 385 N.W.2d 219 (Ct. App. 1986).

Consequently, she argues, the June 13, 2013 order "is dissolved as if it never existed and the commissioner's order has and had no legal force or effect."

¶18 We disagree because the record conclusively shows that Przytarski abandoned the child support issue. Issues pled but not argued before the trial court are deemed abandoned. ***Eckes***, 143 Wis. 2d at 210 n.1.

Standard of review

¶19 Przytarski contends that the proper standard of review is *de novo* because she characterizes this appeal as a challenge to the trial court's construction of WIS. STAT. § 757.69(8), the statute covering *de novo* reviews of court commissioner's orders.[8] However, we disagree because Przytarski actually seeks review of a discretionary order of the circuit court, namely the order for child support. *See* ***Pergolski v. Pergolski***, 143 Wis. 2d 166, 173-74, 420 N.W.2d 414 (Ct. App. 1988) (child support determinations are within the trial court's discretion and will not be reversed absent an erroneous exercise of discretion). It is well established that "[w]hen reviewing a circuit court's exercise of discretion, we affirm if the circuit court applied the proper law to the relevant facts of record and used a rational process to arrive at a reasonable result." ***Ambrose v. Cont'l Ins. Co.***, 208 Wis. 2d 346, 350, 560 N.W.2d 309 (Ct. App. 1997).

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[8] WISCONSIN STAT. § 757.69(8) states, "Any decision of a circuit court commissioner shall be reviewed by the judge of the branch of court to which the case has been assigned, upon motion of any party."

Przytarski abandoned her *de novo* review of the June 13, 2013 child support order.

¶20 It is undisputed that Przytarski properly filed a motion for *de novo* review of the child support order of the court commissioner. She checked the box for child support review, as well as the boxes for custody and placement. We acknowledge that *had she sought it*, she would have been entitled to a full hearing, including testimony, on that issue. *See* ***Stuligross v. Stuligross***, 2009 WI App 25, ¶12, 316 Wis. 2d 344, 763 N.W.2d 241.

¶21 But as we have shown in some detail in the background section above, despite checking the child support box, Przytarski *never once* brought up child support in the more than *eight hearings* before judicial officers between the commissioner's June 13, 2013 order and Judge Rosa's final order on her motion for *de novo* review. *Five* of those hearing dates were court trial dates before Judge Rosa specifically held on the motion for *de novo* review. Yet Przytarski never once mentioned child support. And although she filed over *twelve motions* of various sorts during that same time period, *not one* motion mentioned child support, or wanting a hearing on child support, or objecting to the absence of a ruling on the motion for *de novo* review with regard to child support. We conclude that Przytarski abandoned her challenge to child support. *See* ***Eckes***, 143Wis. 2d at 210 n.1. (an issue pled but not argued in the trial court is deemed abandoned). *See also* ***Santiago***, 205 Wis. 2d at 311 n.10. Although Przytarski tries to shift the responsibility to the trial court for failing to make a ruling on child support, her attempt fails because the law is clear that it is her responsibility to argue the matter and bring it to the trial court's attention. ***Eckes***, 143 Wis. 2d at 210 n.1.

¶22 We conclude that Przytarski abandoned the child support issue despite her extensive litigation of other issues for seventeen months between the entry of the child support order and the trial court's final decision on her motion for *de novo* review. Accordingly, on June 17, 2015, the trial court properly exercised its discretion when it found the June 13, 2013 child support order was still in effect. Consequently we affirm the order of the trial court.

By the Court.—Order affirmed.

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