COURT OF APPEALS
DECISION
DATED AND FILED

January 31, 2008

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2007AP686 **Cir. Ct. No. 1994FA109**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN RE THE MARRIAGE OF:

KATERI R. BOYNTON N/K/A/ KATERI R. ROUSHIA,

PETITIONER-APPELLANT,

V.

RICHARD BOYNTON, JR.,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Juneau County: JOHN P. ROEMER, JR., Judge. *Affirmed*.

Before Higginbotham, P.J., Vergeront and Bridge, JJ.

¶1 VERGERONT, J. In this post-divorce judgment proceeding, Kateri Roushia appeals the circuit court order granting the motion of her former husband, Richard Boynton, to transfer to him primary physical placement of their fourteen-

year-old-daughter. Roushia contends the circuit court erred by (1) questioning her daughter in chambers and denying her the right to cross-examine her daughter; (2) determining there was a substantial change of circumstances; and (3) determining that Boynton overcame the presumption that the current placement was in their daughter's best interests.

¶2 We do not address Roushia's challenges to the procedure the court used to question Chantel because we conclude she waived those. We also conclude the court correctly decided there was a substantial change of circumstances. Finally, we conclude the court, in the proper exercise of its discretion, could decide that the evidence overcame the rebuttable presumption and that it was in Chantel's best interests to transfer primary physical placement to Boynton. Accordingly, we affirm.

BACKGROUND

¶3 Roushia and Boynton were divorced in September 1996, when their daughter, Chantel, was four years old. Pursuant to a stipulation between the parties, which was incorporated into the judgment, they had joint legal custody. Primary placement was with Roushia; Boynton had placement three weekends per month (with an additional one if the month had five weekends), alternating holidays, and two consecutive weeks in the summer. At the time of the divorce, both parents lived in Necedah.

¶4 The placement schedule was revised in January 1997 after Boynton moved to Racine. Based on the parties' stipulation, Boynton's weekend placement was reduced to alternate weekends for a period of time and his summer placement was increased to five weeks. In August 1997, a further modification was made, based on the parties' stipulation, which established Boynton's weekend

placement as alternative weekends and made the five summer weeks nonconsecutive.

¶5 In 2003, Boynton filed a motion asserting that there had been a substantial change of circumstances and asking that Chantel's primary physical placement be with him. The court determined that there had not been a substantial change of circumstances, but that a modification was appropriate to increase the time Chantel spent with Boynton. The court placed her with Boynton for eight consecutive weeks in the summer, with Roushia to have alternate weekend placement during that time.

¶6 The motion that is at issue on this appeal was filed by Boynton in June 2005, again asserting a substantial change of circumstances and requesting primary physical placement. One of the assertions in the motion was that Chantel wanted to reside with Boynton. The court appointed a guardian ad litem for Chantel.

¶7 On the morning of the hearing, the court took up the issue of how Chantel's wishes were to be presented to the court. It was brought to the court's attention that Chantel had made a telephone call to the guardian ad litem two days earlier and there were questions about what that call meant in terms of her wishes regarding placement. Boynton's counsel initially stated his intention to call Chantel as a witness and have her testify about her wishes, her reasons for them, and the telephone call to the guardian ad litem, but then noted that the guardian ad litem had reservations about that procedure and Roushia's counsel had objected. Boynton's counsel was agreeable to the court's proposal that, rather than have Chantel testify in court, the court would question her in chambers with the guardian ad litem present. Roushia's counsel objected to any questioning of

Chantel either by in-court testimony or by the court questioning her in chambers on the ground that it was detrimental to the child; counsel stated that the guardian ad litem could adequately communicate Chantel's wishes. The guardian ad litem's position was the court should talk to Chantel in chambers with the guardian ad litem present, and she stated that Chantel had said she would like to do that. Boynton's counsel asked the court to ask questions on six subjects that he had made a list of. Roushia's counsel objected to any questions being submitted to the court on the ground that it was up to the court to decide what to ask.

¶8 The court agreed with Roushia that it would not be good for Chantel to be called as a witness in court and to be cross-examined by the attorneys. However, the court also stated, Chantel was fourteen and her wishes, though only one factor, were relevant; in addition, the reasons for her wishes were important in evaluating the weight to give her wishes. The court concluded that speaking with her in chambers with the guardian ad litem present was the best way to get the information it needed, including through her demeanor. With respect to questions submitted by the parties, the court stated that the parties were free to submit questions, but the court would determine the appropriate questions to ask. The court accepted the list of questions prepared by Boynton. Roushia did not submit any questions.

¶9 The court questioned Chantel in chambers in the presence of a court reporter and the guardian ad litem. The conference was transcribed and it is contained in the record. After the conference, the court summarized what Chantel had said for Roushia and Boynton and their counsel and allowed the parties to ask questions about the conference.

¶10 The hearing then proceeded, with Boynton and Roushia testifying. The guardian ad litem recommended that Boynton have primary placement. The court concluded there was a substantial change of circumstances, the presumption in favor of continuing the current placement was rebutted, and it was in Chantel's best interest to have primary placement with Boynton. In the court's order modifying the judgment accordingly, it granted Roushia essentially the same weekend and summer placement that Boynton had had.

DISCUSSION

¶11 On appeal, Roushia challenges the circuit court's decision on three grounds: (1) the in-chambers questioning of Chantel erroneously denied her right to cross-examine Chantel; (2) the record does not support the court's determination of a substantial change of circumstances; and (3) the record does not support the determination that the presumption favoring the current placement was overcome.

I. In-Chamber Interview of Chantel

¶12 WISCONSIN STAT. § 767.41(5)(am)[1] provides that, in making determinations of legal custody and physical placement, the court shall consider all facts relevant to the best interest of the child; and the statute specifies certain factors that the court must consider in making the determination. When making a

[1] All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

At the time Boynton filed this motion, WIS. STAT. § 767.41(5) was numbered WIS. STAT. § 767.24(5) (2003-04). Because the substance of this section has remained unchanged insofar as it affects this appeal, we use the current number. We do the same with former WIS. STAT. § 767.325(1)(b) (2003-04), now WIS. STAT. § 767.451(1)(b) (2005-06).

decision whether to modify legal custody or physical placement, the court must consider these same factors. WIS. STAT. § 767.451(5m). One of these factors is "[t]he wishes of the child, which may be communicated by the child or through the child's guardian ad litem or other appropriate professional." Section 767.41(5)(am)2.

¶13 Roushia acknowledges that Chantel's wishes are a factor for the court to consider but, she contends, no statute and no case authorizes the court to use the procedure it did. Specifically, she objects on appeal to the fact that the court questioned Chantel outside the presence of counsel and did not allow her attorney to examine Chantel. Roushia concedes that, if the court determined there would be emotional damage to the child from being cross-examined, the court could prevent cross-examination, but, she asserts, the court did not take evidence on emotional damage to the child.

¶14 The objections that Roushia makes on appeal are not the ones she made in the circuit court. In the circuit court she objected to *any* questioning of Chantel—either in court or in chambers by the judge. Instead, Roushia wanted the guardian ad litem to convey Chantel's wishes. Roushia did not argue that, if the court were going to question Chantel in chambers, she wanted her attorney to be present. Nor did she argue that she wanted the opportunity to cross-examine Chantel. Indeed, after the conference, Roushia, through counsel, specifically stated that she was not asking to cross-examine Chantel. The issue arose because, directly following the conference, the court gave Roushia's attorney the opportunity to make a statement on the record. Counsel's statement was that, if the court were going to rely on anything Chantel had said, Roushia had the right to cross-examine her. When the court asked the guardian ad litem whether it would be in Chantel's best interests to call Chantel as a witness and the guardian ad litem

answered "no," Roushia's attorney said: "I don't wish to do that, Judge. I'm just saying without knowing what she said puts us in a very difficult position as to that element." In response, the court said it would disclose exactly what Chantel had said, and it proceeded to state what Chantel had told the court. When the court completed this summary, it asked Roushia's counsel whether he wanted to inquire any further and he answered "no." The court inquired of the guardian ad litem whether it had omitted anything, the guardian ad litem added some points, and the court again asked Roushia's counsel if he had anything further to say. Counsel again answered "no."

¶15 Thus, the issue Roushia preserved for appeal is whether the circuit court erred in deciding to question Chantel itself rather than have her wishes conveyed by the guardian ad litem. Roushia's argument on appeal does not explain why this was error. We observe that the language of WIS. STAT. § 767.41(5)(am)2 does not mandate any particular method for ascertaining the child's wishes and, in particular, does not mandate that her wishes be communicated through the guardian ad litem or other appropriate professional. Because Roushia does not develop an argument on appeal to support the objection she made in the circuit court, we conclude she has abandoned it and do not consider it further. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (we may decline to address inadequately developed arguments).

¶16 As for the issue that Roushia does pursue on appeal—whether the court erred in questioning Chantel without permitting her counsel to be present to ask questions or, alternatively, making a record that Chantel would be emotionally damaged by that process—we conclude she has waived it. As noted above, Roushia did not ask to have counsel present in chambers; and, through counsel, she expressly stated she did not want to cross-examine Chantel after the

conference. Thus, the court was never presented with the argument that it had to make a record on emotional damage to Chantel in order to properly deny counsel the opportunity to question her. We generally do not decide issues raised for the first time on appeal, ***Greene v. Hahn***, 2004 WI App 214, ¶21, 277 Wis. 2d 473, 689 N.W.2d 657, and we decline to overlook waiver in this instance. It is evident from the record that the court carefully considered each of the parties' expressed concerns and arguments; and we have no way of knowing how the proceedings would have gone if Roushia had asked to have counsel present in chambers, or asked to examine Chantel after the conference, or objected to the fact that there was no evidence of emotional damage.

II. Substantial Change of Circumstances

¶17 WISCONSIN STAT. § 767.451(1)(b) provides:

> *(b) After 2-year period.*
>
> 1. Except as provided under par. (a) and sub. (2), upon petition, motion or order to show cause by a party, a court may modify an order of legal custody or an order of physical placement where the modification would substantially alter the time a parent may spend with his or her child if the court finds all of the following:
>
> a. The modification is in the best interest of the child.
>
> b. There has been a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.
>
> 2. With respect to subd. 1., there is a rebuttable presumption that:
>
> a. Continuing the current allocation of decision making under a legal custody order is in the best interest of the child.
>
> b. Continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child.

> 3. A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification under subd. 1.

Roushia first argues that the court erred in considering the January 1997 order amending the judgment to be the "last order substantially affecting physical placement." Instead, she asserts, it should be the 2003 order, which denied Boynton's motion for change of primary placement but increased his summer placement from five weeks to eight weeks.

¶18 Roushia does not provide us with a record cite showing where she argued to the circuit court that the 2003 order, not the January 1997 order, was the correct one to use as the last order. In our own review of the record, we see that at the close of Boynton's case, which consisted of his testimony and that of Roushia, called adversely, Roushia moved to dismiss on the ground that Boynton had not shown a substantial change in circumstances. In this argument Roushia's counsel mentioned both the 2003 order and the January 1997 order and said "based upon the testimony today, it made no difference." He then argued that the only relevant change since 1997 was Chantel's wish to live with her father, which occurred in 2003. Boynton's counsel's argument in response was based on using the 1997 judgment. In reply, Roushia's counsel argued that all the factors that Boynton asserted had changed since 1997, including Chantel's age, were not a "substantial change" in circumstances as interpreted by the case law.

¶19 In its oral ruling on the motion to dismiss, the court used the January 1997 order as the order from which to measure the change of circumstances, without making an express ruling on that point. This is understandable, because, based on Roushia's argument, it did not appear she was contesting Boynton's use of the January 1997 order. After the court had explained the reasons it concluded

that Boynton had presented a substantial change of circumstances since 1997, the court gave Roushia's counsel the opportunity to make a statement in response. Counsel took the opportunity to make additional argument on why the changes since 1997 that the court stated were significant did not constitute a substantial change of circumstances; he did not object to the court using the 1997 date rather than 2003.

¶20 We conclude that Roushia did not present an adequate argument to the circuit court against using the January 1997 order, although she had the opportunity to do so. Instead, it appears to us, as it no doubt did to the circuit court, that she did not object to using that order as the last order. We therefore decline to consider on appeal whether the court erred in using that order. *See* ***Greene***, 277 Wis. 2d at 473, ¶21.

¶21 We turn now to the merits of the court's ruling that there was a substantial change of circumstances since the January 1997 order. We affirm unless clearly erroneous the circuit court's findings of the circumstances that existed at the time of the prior order, the circumstances that exist at present, and whether, when compared, there are changes. ***Lofthus v. Lofthus***, 2004 WI App 65, ¶17, 270 Wis. 2d 515, 678 N.W.2d 393. Whether those facts constitute a substantial change of circumstances is a question of law, which we review de novo. ***Greene***, 277 Wis. 2d 473, ¶23. However, when reviewing this legal question, we "give weight to a trial court's decision because the decision is heavily dependent upon an interpretation and analysis of the underlying facts." ***Id.*** (citation omitted). We have described a "substantial change of circumstances" in the context of WIS. STAT. § 767.325(1)(b) (1999-2000), now WIS. STAT. § 767. 451(1)(b), as occurring when "the facts on which the prior order was based differ from the present facts, and the difference is enough to justify the court's

considering whether to modify the order." ***Keller v. Keller***, 2002 WI App 161, ¶7, 256 Wis. 2d 401, 647 N.W.2d 426.

¶22 Roushia contends that the facts as found by the circuit court do not constitute a substantial change of circumstances because age in itself is not sufficient, the wishes of the child are not sufficient, and the other reasons the court cited are based on speculation or represent minimal changes that do not meet the standard.

¶23 The circuit court here carefully explained the basis for its conclusion that there was a substantial change of circumstances. With respect to age, the court expressed its awareness that a child's "grow[ing] older does not, in and of itself, create a substantial change [of] circumstances," citing ***Greene***, 277 Wis. 2d 473, ¶25. However, the court viewed ***Greene*** as permitting it to consider age as it related to changes in Chantel's needs, interests, and wishes.

¶24 The court stated that it viewed the age difference between kindergarten or preschool—Chantel was five in January 1997—and adolescence as significant because at Chantel's current age of fourteen, just entering high school, she was going through a period of psychological and social, as well as biological, transition into adulthood. The court therefore considered it appropriate to look at her age in relationship to her psychological, social, and educational needs.

¶25 The court found Chantel to be mature and able to reason well in discussing her wish to live with her father and her reasons for this, and the court therefore credited these. With reference to her social development, the court stated that Chantel had expressed a preference for Elroy, the town where Boynton lived, because it was a small town in the country and she could walk to school and

to places for recreational activities. With respect to her educational needs, the court credited her desire to be in a school with a smaller class size.

¶26 We agree with the circuit court that a change in a child's age from five to fourteen in conjunction with changed developmental needs is an appropriate factor to take into account in assessing whether there is a substantial change of circumstances. Neither ***Lofthus*** nor ***Greene*** prevents this. In ***Lofthus***, the parent cited the fact that his children were older as one basis for modification; there was no evidence of changed needs, interests, or wishes relating to their being older. 270 Wis. 2d 515, ¶¶18, 22. We rejected that argument, stating: "If we declared the natural aging process of the children to be a substantial change warranting placement modification, there would *always* be a modification in every case. The legislature, by creating a presumption of the status quo, meant to raise the bar." ***Id.***, ¶22. We did not suggest in ***Lofthus*** that a significant change in age with accompanying changes in developmental needs could never be a substantial change of circumstances. In ***Greene***, we concluded that a change from "infant to adolescent … accompanied by a pattern of adjustment difficulties, educational failure and harmful or illegal behavior on the part of the child; and the [parents' inability] to agree on a major decision affecting the child's life" constituted a substantial change of circumstances. 277 Wis. 2d 473, ¶25. Roushia appears to suggest that, because Chantel does not have behavior or educational *problems*, her developmental needs may not be considered a substantial change of circumstances. However, that inference from ***Greene*** is not warranted.

¶27 Roushia also points out that there was no testimony as to any psychological, educational, or social need that the child was not receiving or could not receive while placed with Roushia, other than the testimony of Chantel.

However, we are aware of no authority, and Roushia cites none, that requires in this context testimony in addition to Chantel's.

¶28 We also do not agree that it was improper for the court to consider Chantel's wish to live with her father as a changed circumstance that contributes to a substantial change. The child's wishes are an appropriate factor to take into account in deciding whether to modify the order, WIS. STAT. § 767.41(5)(am)2, and therefore are an appropriate factor to take into account along with other changes to decide whether the changes are "enough to justify the court's considering whether to modify the order." *See* ***Keller***, 256 Wis. 2d 401, ¶7.

¶29 Giving weight to the circuit court's determination that the changes of circumstances since January 1997 were substantial, we are satisfied that the circuit court was correct in its conclusion.

III. Best Interest

¶30 Once the moving party has established a substantial change of circumstances, the circuit court then proceeds to determine whether modification is in the best interest of the child. ***Greene***, 277 Wis. 2d 473, ¶22; *see also* WIS. STAT. § 767.451(1)(b)1. In this determination, there is a rebuttable presumption that "[c]ontinuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child." Section 767.451(1)(b)2.b.

¶31 The decision whether to modify a placement order involves the consideration and weighing factors to determine what is in the child's best interest and is committed to the circuit court's discretion. ***Greene***, 277 Wis. 2d 473, ¶27. We affirm the circuit court's decision if the court applied the correct legal standard

to the relevant facts and reached a reasonable result. ***Keller***, 256 Wis. 2d 401, ¶6. Our task as a reviewing court is to search the record for reasons to sustain the circuit court's exercise of discretion. ***Id.*** We do not substitute our own judgment for that of the circuit court's properly exercised discretion. ***Greene***, 277 Wis. 2d 473, ¶27.

¶32 Roushia argues that the circuit court erroneously exercised its discretion because it placed too much weight on Chantel's wishes and relied on factors that had no factual support in the record. According to Roushia, if the court had properly considered all the factors and had relied only on the facts of record, the presumption of continuing the current placement was not overcome.

¶33 The circuit court here gave a lengthy oral decision explaining its decision that transfer of primary placement to Boynton was in Chantel's best interest. It expressly recognized the presumption, went through each of the relevant factors in WIS. STAT. § 767.41(5)(am) to determine if the presumption was overcome, and concluded that it was.

¶34 With respect to the wishes of the parents, the court stated that Boynton believed that primary physical placement with himself was in Chantel's best interest and Roushia believed primary placement with herself was in Chantel's best interest.

¶35 With respect to Chantel's wishes, the court viewed this as "the predominant factor." The court explained it was giving her wish to have primary physical placement with her father "a great deal of weight" because she was mature and her reasons were well thought out. It referred to her discussion of her desire for a smaller school and her hobbies of hunting and fishing.

¶36 With respect to Chantel's relationship with her parents, the court considered this the "second most important factor." Here the court referred to the incident of Chantel's telephone call from her mother's house to the guardian ad litem two days before the hearing. The court stated its understanding that Chantel told the guardian ad litem in that telephone call that she did not want to have primary physical placement with her father, and the court ascertained from both attorneys that this was their understanding as well. The court then addressed the issue of what Roushia had said to Chantel just before she made the telephone call, which was a topic both in the court's questioning of Chantel and in Roushia's testimony. Chantel, as the court informed the parties after the conference, told the court that her mother asked her to call the guardian ad litem and told her what to say. Roushia testified that she did not tell her daughter what to say but said only that she should tell the guardian ad litem what she really wanted to do. The court stated that it did not believe Roushia. It found that she had asked Chantel to tell the guardian ad litem that she did not want primary placement with her father because that is what Roushia wanted, that this was inappropriate, put Chantel in a difficult situation, showed insensitivity toward Chantel, and hurt Chantel's relationship with both parents, particularly with her mother. The court noted that Chantel loves both her parents, but the incident with the phone call caused her harm and consternation.

¶37 With respect to Chantel's adjustment to home, school, and community, the court stated that her adjustment would be better in Elroy based on her preferences, which, the court repeated, were reasonable and well thought out. The court found that her psychological, social, and educational needs, again based on her wishes and her reasons for them, would be better met in Elroy. The court also found that primary placement with her father would provide a more

predictable and stable environment. Finally, the court placed substantial weight on the relative level of communication and cooperation demonstrated by both parents and found that the phone call incident reflected negatively on Roushia in this regard.

¶38 We conclude the evidence as credited and weighed by the circuit court is sufficient to overcome the presumption. Roushia has a different view of how the court should have viewed the evidence and weighed the factors, but that is at the heart of the court's role in exercising its discretion to determine what is in Chantel's best interest. Roushia also objects to the court relying on Chantel's statements of her preferences to determine what would best meet her needs. Part of this objection is based on the assertion that there must be some other evidence of her needs, from parents or experts. But, as we have already noted, Roushia provides no authority supporting the need for experts in this situation, and the same is true regarding testimony from her parents. Another aspect of this objection is that Chantel did not testify in court to her wishes and preferences and Roushia did not have the opportunity to cross-examine her on them. However, as we have already explained, Roushia has waived this objection.

¶39 Similarly, Roushia objects to the court relying on its belief that Roushia asked Chantel to call the guardian ad litem and tell her she wanted to live with her father. According to Roushia, this was improper because she testified she did not do that, and Chantel did not testify to this in court and was not cross-

examined on this point. This objection, too, has been waived for the reasons we have already explained.[2]

[2] In making this argument, Roushia asserts that Chantel did not tell the court that her mother told her to call the guardian ad litem and told her what to say, but, rather, the court inferred this. We do not agree that this is what the record shows.

The court's questioning of Chantel regarding the telephone call, for reasons not evident from the record and which no party addresses, is not part of the transcript made of the in-chambers questioning. The transcript appears to start at the end of that discussion. However, when the court summarized what Chantel said in chambers to the parties and their attorneys, it said:

> [Chantel] indicated to the Court that her mother, Ms. Roushia, requested that she call and told her what to say, saying that was the sum and substance of the conversation. That was not her idea to make the telephone call, but she indicated her mother asked her to do that. That was her statement concerning that.

One of the points the guardian ad litem added was that "Chantel said about the phone call … that sometimes she doesn't always do what mom tells her to do, but on that occasion, she did, because she had a friend over at the time, and she didn't want her mom to flip out in front of her friend."

After the court explained in its oral ruling, approximately one month after the hearing, that it did not believe Roushia's testimony on the telephone call, her attorney asked the court the basis for its finding "that my client, in fact, coerced … the child [into] making that phone call." The court's initial response was not clear on what Chantel told the court about the telephone call, and Roushia's counsel asked: "But there was no statement that her mother told her to make the phone call." The court's response, "I did not pressure the subject directly about"—was cut off by Roushia's counsel who began talking about child support. The topic of what Chantel told the court about the telephone call did not come up again, insofar as we can tell from the record.

Given the specificity of the court's summary, directly after its questioning of Chantel, of what Chantel told the court, and the guardian ad litem's addition at that same time, and given the ambiguity of the later comments on which Roushia relies, which Roushia did not attempt to clarify, we accept the court's initial summary. We also observe that the court had ample opportunity to assess Roushia's credibility during her testimony on the telephone call. As the fact-finder, the court could choose to believe Roushia had influenced Chantel to call the guardian ad litem and tell her she (Chantel) did not want to change her primary placement, even though Roushia denied this. *See* ***Lellman v. Mott***, 204 Wis. 2d 166, 172, 554 N.W.2d 525 (Ct. App. 1996) (court acting as fact-finder may disbelieve witness's testimony; credibility is for the fact-finder to decide).

¶40 We conclude the circuit court properly exercised its discretion in deciding that it was in Chantel's best interest to transfer Chantel's primary placement to Boynton. The court applied the correct law to the relevant facts and reached a reasonable result.

CONCLUSION

¶41 In summary, we do not address Roushia's challenges to the procedure the court used to question Chantel because we conclude she waived those. We also conclude the court correctly decided there was a substantial change of circumstances. Finally, we conclude the court, in the proper exercise of its discretion, could decide that the evidence overcame the rebuttable presumption and it was in Chantel's best interest to transfer primary physical placement to Boynton.[3]

By the Court.—Order affirmed.

Not recommended for publication in the official reports.

[3] Boynton asks that we sanction Roushia's counsel for citing an unpublished decision, *see* WIS. STAT. § 809.23(3), and for not having page references on the Table of Authorities. *See* WIS. STAT. § 809.19(1)(a). Roushia's reply brief explains why counsel mistakenly believed the unpublished opinion was in fact published. We conclude there is no need for a sanction on either this ground or the lack of page references in the Table of Authorities. However, we remind Roushia's counsel of the importance of complying with all the rules of appellate briefing.