

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 8, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

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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. 2025AP1778
STATE OF WISCONSIN**

Cir. Ct. No. 2017FA2370

**IN COURT OF APPEALS
DISTRICT IV**

DAVID J. MIESCKE,

PETITIONER-APPELLANT,

V.

TERESA LYNN PAHL,

RESPONDENT-RESPONDENT.

APPEAL from orders of the circuit court for Dane County:
RHONDA L. LANFORD, Judge. *Affirmed and cause remanded.*

Before Graham, P.J., Kloppenburg, and Nashold, JJ.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. David Miescke appeals two circuit court orders entered in 2025 regarding legal custody and physical placement of a child whom he and Teresa Lynn Pahl share. In one order, the court discharged the guardian ad litem (GAL), dismissed Miescke’s most recently filed motion to modify legal custody and physical placement, and restricted Miescke’s filing of future motions for relief. In the other order, the court awarded sole legal custody to Pahl, required that placement with Miescke be supervised and imposed conditions for reviewing the supervision requirement, required that Miescke pay GAL fees, and prohibited Miescke from making unapproved visits to the child’s daycare or school. We reject Miescke’s multiple challenges to each order. We also grant Pahl’s motion seeking costs and attorney fees for a frivolous appeal under WIS. STAT. RULE 809.25(3) (2023-24) and remand to the circuit court to determine the amount of the award.¹

BACKGROUND

¶2 We present in detail the pertinent procedural facts, the evidence presented at the pertinent hearings, and the circuit court’s rulings to provide context for the issues addressed below.

¶3 Miescke and Pahl share a minor child. Since 2017, there has been considerable litigation in the circuit court regarding the legal custody and physical placement of their child.

¶4 In 2018, the circuit court entered a Paternity Judgment and Stipulation Regarding Custody and Placement (the “2018 judgment”).

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

¶5 In 2023, the circuit court entered an order amending the 2018 judgment, pursuant to the parties' stipulations. As relevant to this appeal, the order granted the parties joint legal custody of the child with Pahl having impasse breaking authority regarding all legal custody and medical and health care decisions. The order granted primary physical placement with Pahl and set out a physical placement schedule that reduced the placement of the child with Miescke from that set out in the 2018 judgment. In addition, the order required that the child participate in "counseling/therapy," and that the parties participate in the child's therapy only as the therapist permits, follow all recommendations by the therapist, and not interfere with the child's therapy. The order further required that Miescke follow all recommendations in the court-ordered psychological evaluation report "and participate in counseling/therapy to address his own treatment needs."

¶6 Also in 2023, the circuit court entered a separate order appointing a parent coordinator to assist the parties with resolving conflicts related to the child. That order outlined the parent coordinator's specific responsibilities and what disputes the parent coordinator would assist the parties with, and mandated that the parent coordinator's decisions be legally binding unless set aside by the court. Between October 2023 and May 2025, the parent coordinator issued 17 decisions resolving the parties' disputes.

¶7 In 2024, Miescke filed motions for the circuit court to review and set aside certain decisions by the parent coordinator. In June 2024, the court reappointed the GAL, who had previously been discharged, due to the filing of these motions. The court held a de novo hearing and, in December 2024, dismissed all of Miescke's motions.

¶8 In the parent coordinator’s 17th decision issued in May 2025, the parent coordinator concluded:

Mr. Miescke sent over 80 pages of documentation to me, most of which was irrelevant to the issue at hand. Past court proceedings and the [parent coordinator]’s 16 prior Decisions make it clear that Mr. Miescke continues to place his own needs, wants, and “rights” ahead of [the child’s]. He cannot or is unwilling to see how his own behavior has compromised his daughter’s mental health care and has created the problems about which he now complains and for which he blames Ms. Pahl.

¶9 Also in May 2025, Pahl filed a letter in the circuit court requesting that the GAL be discharged from the case, noting excessive filings and emails from Miescke to the GAL when there was no current legal action pending in the case.

¶10 On June 17, 2025, Miescke filed a “Motion to Modify Custody, Placement, Enforcement and for Evidentiary Hearing.” In support of his request to modify legal custody and physical placement, Miescke asserted that he had worked with the GAL and followed all circuit court-ordered recommendations and conditions in the 2023 stipulation and order. He argued that: modifying physical placement was in the best interest of the child; Miescke had other positive life changes that improved his “parental stability”; the child’s needs had changed; and Pahl had not been complying with court orders and had been interfering with Miescke’s relationship with and parenting of the child. Miescke also filed a letter opposing Pahl’s request to discharge the GAL because “many issues remain unresolved—including medical access, co-parenting barriers, and discrepancies regarding compliance with treatment recommendations.”

¶11 On June 18, 2025, the GAL filed her report to the circuit court. The report consisted of an email exchange between the GAL and the parties’ attorneys

in which she advised them that Miescke had begun to work on meeting the conditions but had “not gotten real far yet.”

¶12 The circuit court held a hearing on June 24, 2025. At the outset of the hearing, the court said that:

We are set today for a hearing on whether the appointment of the guardian ad litem should conclude in this case. I know Mr. Miescke has filed a lot of information with the court, none of that is going to be decided or heard today. We are just going to discuss whether the appointment should continue.

Attorney John Louderman appeared at the hearing on behalf of Miescke “on a limited term engagement,” and he acknowledged that he would be arguing on Miescke’s behalf at the hearing.

¶13 The circuit court heard argument from counsel for both parties and the position of the GAL, regarding both the GAL’s appointment and whether Miescke had established a significant change in circumstances in support of his motion to modify legal custody and physical placement. The GAL informed the court that Miescke is “not where [he] need[s] to be,” and has not made sufficient progress in meeting the conditions to show a substantial change in circumstances. The court issued an oral ruling: (1) discharging the GAL, but providing for reappointment of the GAL should Miescke file a motion showing a substantial change in circumstances warranting modification of physical placement; (2) dismissing Miescke’s most recent motion to modify legal custody and physical placement based on the GAL’s assessment that there was no substantial change in circumstances in that Miescke had not met the conditions for additional physical placement; and (3) ordering that any future motions for modification of legal custody and physical placement filed by Miescke be reviewed and approved by the

court before being scheduled before a court commissioner. On July 8, 2025, the court entered a written order consistent with its oral ruling.

¶14 On August 14, 2025, Pahl filed several pleadings in which she requested emergency relief based on certain instances of inappropriate behavior by Miescke towards the child and her resulting concern for the child's safety when placed with him. Pahl sought sole legal custody of the child, primary placement of the child, supervised placement of the child with Miescke, and reappointment of the GAL with Miescke paying all GAL fees. On August 15, 2025, the circuit court scheduled a hearing for August 27 and reappointed the GAL.

¶15 At the start of the hearing, the circuit court was informed that the GAL wanted to call the child's therapist to testify. Both the GAL and Pahl's attorney told the court that the child's therapist was available to testify, but they and the therapist were concerned that proceeding with the therapist's testimony would risk damaging the therapeutic relationship. Pahl's attorney and the GAL said that the GAL was prepared to tell the court what the therapist reported to the GAL. Miescke agreed with their concerns about the therapeutic relationship and agreed that the therapist should not testify. The court then directed the GAL to present what the therapist told the GAL, which had led to Pahl's emergency request. The court characterized the GAL's presentation of the therapist's report as "go[ing] to" the GAL's recommendation. The GAL then reported what she had been told by the child's therapist regarding several instances of inappropriate behavior by Miescke, as related to the therapist by the child.² The GAL also said

² The hearing transcript shows that the GAL framed her report of the therapist's remarks as "an offer of proof." However, as we discuss below, this report was not an offer of proof as statutorily defined. Rather, as the transcript also shows, the circuit court accepted this report as part of the GAL's "recommendation[]" to the court.

that the therapist, given her background and training in child abuse and standard therapy, had a significant concern about the child having unsupervised placement with Miescke.

¶16 Pahl, on direct examination by her attorney, testified about her concerns for the child's safety when placed with Miescke. Pahl testified that Miescke unnecessarily bathed the child and gave her medication above safe dosage limits during his six-hour placements; and that Miescke told the child he did not care what the courts decide and that he would break into the child's house and take her away if he did not have placement with her. Pahl also testified that she made an appointment for the child to see the child's therapist right after the child told Pahl about Miescke's "frightening statements," and that after the appointment the therapist told Pahl that the therapist was going to make a referral to Child Protective Services (CPS).

¶17 Pahl further testified about incidents when Miescke interfered with the child's therapy, health care providers, and medical treatment and appointments. Pahl also testified that Miescke attempted to interfere with the child's summer camp and visited the child's day care daily during the school year, and that both staff and the child indicated that the visits were disruptive.

¶18 Miescke, pro se, cross-examined Pahl regarding Pahl's medical impasse authority, Pahl's choice of healthcare provider for the child, a telehealth appointment during the child's physical placement with Miescke, Pahl's communication with Miescke regarding the results of the child's medical appointment, health insurance renewal, and an emergency room visit Pahl made with the child. Miescke asked Pahl whether she had ever withheld placement from Miescke for safety reasons. Pahl testified that she filed the emergency request due

to concerns for the child’s safety with Miescke and, after the circuit court clarified the question, that Pahl did not withhold placement from Miescke after filing the request because she was obligated to continue to comply with the court-ordered physical placement schedule despite her ongoing concerns for the child’s safety. Miescke also asked Pahl about her payment of GAL fees, the expiration of the parent coordinator’s contract, and Pahl’s request to discharge the GAL. During Miescke’s cross-examination of Pahl, the court said:

We are wasting time at this point, Mr. Miescke. You have spent all of your questions on medical impasse authority and guardian ad litem fees. And the most important reason we’re here are the allegations that have been made against you for purposes of placement. I find it curious you haven’t asked a single question about any of that; you just want to talk about medical bills -- or medical records and GAL fees.... And so your entire questioning has gone on, on what I really find are sort of irrelevant issues.

Miescke continued to cross-examine Pahl regarding what he told the court was his last exhibit, a letter from the parent coordinator, as well as some of the other issues unrelated to the child’s safety identified above.

¶19 After cross-examining Pahl, Miescke requested that his father testify as a rebuttal witness to address what Miescke described as “the safety issues.” The circuit court denied the request because Miescke’s father had been present throughout the hearing and had not been excluded from the courtroom. Miescke also told the court that he would not testify at the hearing.

¶20 The GAL recommended to the circuit court, based on “the record” developed at the hearing, that the child’s placement schedule with Miescke stay the same but that all placement with Miescke be supervised. The GAL relatedly emphasized that Miescke needed to address the safety concerns in a therapeutic setting and to return to court “when something substantial has changed.” The

GAL also recommended that Pahl be awarded sole legal custody for the child's health care, because the existing order of joint legal custody with Pahl having impasse authority is confusing for care providers.

¶21 Pahl's counsel asked that the circuit court's order specify that Miescke must comply with all established rules of supervision before the court will review legal custody and physical placement in the future. Counsel also asked that Pahl be awarded sole legal custody "across the board," that Miescke not be allowed to disrupt the child's daycare, and that Miescke be required to address his own behavioral issues.

¶22 The circuit court made its oral ruling the following day. The court determined, based on the evidence presented, that Pahl had shown a substantial change in circumstances, and that it is in the child's best interest to grant Pahl's request for sole legal custody and Pahl's request for supervised physical placement.

¶23 Specifically, the circuit court credited Pahl's testimony about the most recent incident of Miescke unilaterally canceling the child's medical appointment and scheduling an appointment with a different provider; past and more recent incidents of Miescke interfering with the child's therapy; and Miescke's daily interruption of the child's summer camp. The court found that Miescke "puts his needs and interests above [the child]'s. He decides he knows what is best and refuses to consider what is best for [the child]."

¶24 In granting sole legal custody of the child to Pahl, the circuit court explained that:

This is a bright line that hopefully [Miescke] can follow -- he is not to cancel or otherwise interfere with [the child]'s

physical or emotional treatment, including going to her day care unannounced or school unannounced, and interfering in her day. He may have access to [the child]’s medical and school records, but he may not attend medical appointments unless [Pahl] approves. [Pahl] is the sole decision-maker regarding [the child]’s custodial decisions.

¶25 The circuit court then discussed the GAL’s recommendation, including the GAL’s report about Miescke’s inappropriate behavior towards the child. The court noted that the child’s therapist was so concerned about the behavior, related to her by the child, that she offered to testify even though doing so could damage her therapeutic relationship with the child. The court found it significant that Miescke chose not to testify at the hearing: “He did not get on the stand and say that none of those things happened.... Instead he only cross-examined [Pahl] on medical decisions and guardian ad litem fees he did not think he should have to pay. Not one question regarding the [safety] concerns” raised in the GAL’s report. The court determined that supervised physical placement was required based on the record regarding concerns for the child’s safety.

¶26 Consistent with its above-stated determination, the circuit court granted Pahl’s request for supervised physical placement, following the parties’ existing schedule as long as it can be accommodated by an approved supervisor. The court further ordered that the GAL consult with the therapist and determine the circumstances under which Miescke may petition to resume unsupervised physical placement, so that those conditions may be included in the court’s written order.

¶27 The circuit court ordered that Miescke reimburse Pahl for her payment of the GAL’s retainer when the GAL was reappointed and be responsible for all GAL fees going forward, because “[b]ut for [Miescke]’s conduct, this reappointment would not have been necessary.”

¶28 In October 2025, the circuit court entered a written order consistent with its oral ruling. The court made factual findings regarding Miescke's interference with the child's therapy and medical appointments in violation of Pahl's impasse authority, and Miescke's interference with the child's summer camp and day care. The court also found that "the parties stipulated on the record" that the GAL could present the therapist's report about what the child told the therapist. The court further found that the child "made reports to her therapist which were referred to CPS but were screened out," and separately described Miescke's threatening statement related by the child to Pahl.

¶29 The circuit court determined that the record established "an emergency related to the minor child" and, implicitly therefore, a substantial change of circumstances. The court explicitly determined that the record also established that it is in the best interest of the child that Pahl be granted sole legal custody and that the placement of the child with Miescke be supervised. The order: (1) awarded Pahl sole legal custody of the child; (2) ordered that Miescke's physical placement with the child be supervised; (3) required that Miescke pay for all GAL fees going forward and reimburse Pahl for the retainer she paid to the GAL when the GAL was reappointed, and that Miescke pay for all physical placement-related expenses; (4) prohibited Miescke from making unapproved and unannounced visits to the child's daycare or school; and (5) imposed conditions for Miescke to meet in order to seek review of the supervision of the child's physical placement with him.

DISCUSSION

¶30 Miescke raises multiple challenges to the June 2025 hearing and corresponding July 2025 order, and to the August 2025 hearing and corresponding October 2025 order, which we address in turn.³

I. June 2025 Hearing and July 2025 Order

¶31 Miescke argues that the circuit court violated his right to due process when it dismissed his most recently filed motion to modify legal custody and physical placement, and when it restricted his filing of future motions for modification. He also argues that the written order does not accurately represent the hearing record.⁴

A. Dismissal of motion to modify legal custody and physical placement

¶32 Miescke argues that the circuit court violated his right to due process when the court dismissed his motion because: the court said that the motion would not be heard; he was unrepresented; and the court relied both on Pahl’s attorney’s factual assertions and on the GAL’s opinion despite what he asserts was the

³ We observe that Miescke’s appellate briefs and abundant 2025 circuit court filings contain several indicators of possible generative artificial intelligence (GAI) use, including false quotes, misrepresentation of the record, and inaccurate citations. We caution Miescke that GAI can produce misleading and unreliable results. In addition, given the sensitive information regarding a minor child involved in this case, we further caution Miescke that GAI platforms may not provide privacy protections for sensitive personal or confidential medical information included in prompts, documents, or other data uploaded to the GAI platform.

⁴ Miescke does not make an argument addressing the part of the circuit court’s order discharging the GAL, and so we do not address that part further.

Separately, Pahl argues that all of Miescke’s arguments are moot. Without deciding mootness, we proceed to address Miescke’s arguments and explain why they lack merit.

GAL’s “uncertainty” regarding the scope and completion of her investigation, without receiving testimony or exhibits or giving Miescke an opportunity to be heard. Miescke also argues that the court failed to apply the correct legal standard—whether he showed a substantial change in circumstances and whether modification would be in the child’s best interest—and instead dismissed his motion based on his “filing volume and procedural history.” At the same time, Miescke inconsistently argues that the court determined, contrary to the record, that there was no substantial change in circumstances. As we explain, none of Miescke’s arguments have merit.

¶33 As stated, Miescke argues that the circuit court violated his right to due process because it dismissed his motion after saying that it would not be heard and because he was not represented. The record refutes this argument.

¶34 The record shows that the circuit court said that it was not going to “schedule[]” the motion for an evidentiary hearing, and, therefore, that it was not at the June hearing going to “decide[]” or “hear[]” the motion based on an evidentiary hearing. The court instead dismissed the motion because it did not on its face show a substantial change in circumstances to warrant further adjudication and merely repeated prior similarly unsupported attempts to modify legal custody and physical placement. As to Miescke being unrepresented, the attorney who had been representing Miescke acknowledged that he would be arguing on Miescke’s behalf at the hearing, and the attorney did vigorously argue in support of the motion at the hearing. Miescke fails to show that the court violated his right to due process in either respect.

¶35 Miescke also argues that the circuit court violated his right to due process because it relied both on Pahl’s attorney’s factual assertions and on the

GAL's opinion despite what he asserts was the GAL's "uncertainty" regarding the scope and completion of her investigation, and without receiving testimony or exhibits or giving him an opportunity to be heard. The record also refutes this argument.

¶36 The record does not show that the circuit court relied on Pahl's attorney's assertions in dismissing Miescke's motion. The record does show that Miescke misrepresents the GAL's remarks at the hearing. The GAL said that, as defined at earlier hearings, she understood her role was for Miescke to work with her and see if he had met the conditions for additional placement, but that instead he was inundating her with "complaints and ... filings and submissions" that were time consuming for her to review, without showing that he had met the conditions. She told the court that Miescke just keeps going without making changes to get "where [he] need[s] to be." It was in light of his persisting without making the required changes that the GAL sought guidance going forward should her appointment be continued. The GAL made no indication that she was uncertain, or needed to further investigate, regarding her determination that, "[a]bsolutely," Miescke had not met the conditions for physical placement modification. Miescke fails to show that the court violated his right to due process in relying on the GAL's remarks.

¶37 As for the circuit court dismissing Miescke's motion without giving him an opportunity to be heard, he filed before the hearing a "Written Statement in Lieu of Oral Argument," and, as noted, the attorney representing him at the time argued vigorously on his behalf in support of the motion. Also as stated, the court dismissed the motion without scheduling an evidentiary hearing because on its face the motion did not show a substantial change in circumstances. Miescke fails to show that the court violated his right to due process in proceeding as it did.

¶38 While Miescke argues that the circuit court failed to determine whether he showed a substantial change in circumstances, he also argues that the court erred in determining that there was no substantial change in circumstances. Specifically, he argues that the court’s determination that his motion failed to show that he had met the conditions warranting modification was based on “stale” assessments by the GAL and contradicted by his submissions. The record shows that the court did determine that he failed to show a substantial change in circumstances, and his argument that the court erred in doing so is also refuted by the record. The GAL, in her report to the court, made it clear that she had reviewed his most recent submissions and determined that he was “making an effort” toward meeting the conditions, but had “not gotten real far” and was “not where [he] need[s] to be.” That Miescke disagrees—that, as expressed by the GAL, “he just cannot hear it” when he “does not get what he wants”—does not suffice to show that the court erred in relying on the GAL’s report to determine that his motion failed to show that he had met the conditions warranting modification and to dismiss his motion on that basis.

B. Imposition of filing restriction

¶39 Miescke argues that the circuit court restricted his future filings without statutory authority and without finding bad faith, frivolousness, or vexatious litigation justifying the restrictions. This argument fails because Miescke disregards the court’s explanation on the record for the restriction, and he cites no legal authority supporting the proposition that the court erred in imposing the restriction based on that explanation.

¶40 Circuit courts have broad discretion to control their dockets with economy of time and effort. See *Rupert v. Home Mut. Ins. Co.*, 138 Wis. 2d 1, 7, 405 N.W.2d 661 (Ct. App. 1987).

¶41 The circuit court here ordered, “Any future motions or requests for relief filed by [Miescke] in this matter will be subject to review by the court before they are scheduled before the Circuit Court Commissioner’s Office.” At the hearing, the court explained that the law requires that Miescke show a substantial change in circumstances to support a motion to modify legal custody and physical placement; that here that means that he has met the conditions for modification previously set in this case; and that he had repeatedly submitted similar motions accompanied by voluminous documents to the GAL and the court, without making the changes in his behavior sufficient to satisfy those conditions. The court concluded that it “is not going to be a forum for ... Mr. Miescke to air his grievances every six months” without showing that he has met the conditions for modification, and it required that future motions by Miescke be reviewed and approved by the court before they are scheduled before the court commissioner.

¶42 It is evident from this explanation that the circuit court did impose the filing restriction based on Miescke’s history of vexatious and frivolous litigation relating to legal custody and physical placement modification, and in order to minimize the unnecessary use of scarce court resources. In addition, as stated, Miescke does not cite legal authority supporting his argument that the court erred in doing so.

C. Asserted cumulative errors and inaccurate written order

¶43 Miescke argues that all of the errors identified above warrant reversal or remand. Because we have rejected his arguments about those asserted errors, there is no basis for reversal or remand.

¶44 Miescke also argues that the written order does not accurately reflect the hearing record or the circuit court’s oral ruling in three respects. The record refutes his argument.

¶45 Miescke asserts that the order inaccurately dismisses his motion to modify legal custody and physical placement, when the circuit court said that it was not scheduling the motion. However, the court said that it was not going to “schedul[e]” the motion for an evidentiary hearing, or “hear[]” or “decide[]” the motion based on an evidentiary hearing, and instead dismissed the motion because on its face it did not show a substantial change in circumstances to warrant further adjudication. The written order is not inaccurate in this respect.

¶46 Miescke asserts that the order inaccurately states that counsel made a special appearance, when the attorney said that he was not representing Miescke on the modification motion. However, the attorney did say that he was making a “limited appearance,” and Miescke does not explain how “limited” is meaningfully different from “special.” In addition, while the attorney did say that he “will not be representing” Miescke on “other issues” including Miescke’s motion to modify physical placement, the attorney also acknowledged that he would be arguing on Miescke’s behalf at the hearing and did vigorously argue in support of the motion at the hearing. The written order is not inaccurate in this respect.

¶47 Miescke asserts that the order imposes filing restrictions when the circuit court made no findings or analysis. However, the transcript of the hearing shows that the court did impose, and explain why it was imposing, the filing restriction: because Miescke repeatedly filed meritless motions that burdened the GAL and court. Miescke fails to show that the order is inaccurate in this respect.

II. August 2025 Hearing and October 2025 Order

¶48 The determination of whether to modify a legal custody or physical placement order is directed to the circuit court’s discretion. ***Keller v. Keller***, 2002 WI App 161, ¶6, 256 Wis. 2d 401, 647 N.W.2d 426. “We affirm a [circuit] court’s discretionary determination when the court applies the correct legal standard to the facts of record and reaches a rational result.” ***Id.*** As a reviewing court, our task “is to search the record for reasons to sustain the [circuit] court’s exercise of discretion.” ***Id.***

¶49 As a reviewing court, we also “defer[] to the circuit court’s findings of fact unless they are unsupported by the record and are, therefore, clearly erroneous.” ***Royster-Clark, Inc. v. Olsen’s Mill, Inc.***, 2006 WI 46, ¶11, 290 Wis. 2d 264, 714 N.W.2d 530. “Under the clearly erroneous standard, ‘even though the evidence would permit a contrary finding, findings of fact will be affirmed on appeal as long as the evidence would permit a reasonable person to make the same finding.’” ***Id.***, ¶12 (quoted source omitted).

¶50 Miescke challenges the August 2025 hearing and the October 2025 order modifying legal custody and physical placement in numerous respects. We identify Miescke’s arguments in the headings below. As we explain, none of the arguments have merit.

A. Circuit court erroneously found that Miescke cancelled child's appointment

¶51 Miescke argues that the circuit court's factual finding that he recently cancelled his child's medical appointment, in violation of Pahl's legal custody authority, is clearly erroneous because it "lacks any competent evidentiary support." Specifically, Miescke argues that this finding is clearly erroneous because it is based solely on Pahl's purported hearsay testimony, and because her testimony was contradictory and the court did not resolve that contradiction. Miescke's hearsay argument fails because it is unsupported by relevant legal authority, and his contradictory testimony argument fails because the record shows no contradiction.

¶52 At the hearing, Pahl testified on direct examination as follows. The child was a patient at a clinic where Miescke became employed. Miescke obtained access to the child's medical records and interacted with staff at the clinic concerning the child's treatment. Miescke's presence and interactions with the staff at the clinic were disruptive to the child's treatment. For these reasons, and because the child was not close to any of the providers she saw at that clinic, Pahl acted in what she believed to be the child's best interest and arranged, over Miescke's disagreement, for the child to see a different provider at a different clinic. Pahl arrived at the new clinic on August 11 for the child's appointment with a new provider and was told by clinic staff that Miescke had cancelled the appointment on August 5. Miescke had instead scheduled a new appointment with the previous provider at the previous clinic, even though Pahl had impasse authority over the decision to change clinics and providers.

¶53 Miescke objected based on hearsay to Pahl's testimony that she was told by the clinic staff that he had cancelled the appointment. The court overruled

the objection, explaining that the testimony was not hearsay by definition but a statement by a party opponent, namely Miescke.

¶54 On cross-examination by Miescke, Pahl testified as follows. The child had seen a different provider almost every time that Pahl took her to her appointments at the previous clinic, and Pahl was concerned that Miescke was communicating with the child's providers outside of her appointments and accessing the child's records at the clinic that Pahl could not access. Pahl did research as to which new clinic and provider to take the child to. The appointment with the new provider at the new clinic did take place even though Miescke had cancelled it.

¶55 Miescke argues that the circuit court erred in finding that he had unilaterally cancelled the child's medical appointment because it was based on Pahl's purported hearsay testimony and not on any testimony by the clinic staff or documentary evidence. However, Miescke does not engage in any analysis citing legal authority to support his hearsay argument. We reject his argument as undeveloped and lacking legal support. See ***Industrial Risk Insurers v. American Eng'g Testing, Inc.***, 2009 WI App 62, ¶25, 318 Wis. 2d 148, 769 N.W.2d 82 (we need not consider arguments unsupported by legal authority); ***Wisconsin Conf. Bd. of Trs. of the United Methodist Church, Inc. v. Culver***, 2001 WI 55, ¶38, 243 Wis. 2d 394, 627 N.W.2d 469 (we do not address arguments that are conclusory and insufficiently developed).

¶56 Miescke also argues that the circuit court erred in finding that he had unilaterally cancelled the child's medical appointment because it is based on contradictory testimony that the court failed to reconcile. Specifically, he argues that Pahl's testimony that he cancelled the appointment is contradicted by her

testimony that the appointment “in fact occurred.” This argument fails because the two facts to which Pahl testified are not contradictory. That is, both can be true—Miescke cancelled the appointment and the provider managed to see the child nevertheless.⁵ Miescke fails to develop an argument to the contrary.

B. Circuit court unequally allotted hearing time and improperly restricted cross-examination, and improperly denied rebuttal testimony and post-ruling closing argument

¶57 Miescke argues that the circuit court erred when it unequally allotted hearing time between the parties and restricted his cross-examination of Pahl; and when it denied his requests to present rebuttal testimony by his father and to make a closing argument after the court issued its oral ruling.

¶58 Circuit courts have “broad discretion to admit or exclude evidence and to control the order and presentation of evidence at trial.” *State v. James*, 2005 WI App 188, ¶8, 285 Wis. 2d 783, 703 N.W.2d 727; WIS. STAT. § 906.11(1) (circuit courts have broad discretion to “exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence”). We will affirm the court’s exercise of its discretionary authority if the decision has a reasonable basis and was made in compliance with the facts of record and accepted legal standards. *See James*, 285 Wis. 2d 783, ¶8.

¶59 Miescke argues that the circuit court imposed “placement-affecting consequences without affording [Miescke] a full and fair evidentiary hearing” due to the unequally allotted hearing time between parties. Specifically, Miescke

⁵ To this point, Pahl’s testimony is clear and not contradictory. In response to Miescke’s question during cross-examination about whether the appointment took place, Pahl testified that “They saw us regardless of the fact that you canceled [the appointment].”

asserts that the court's "interruptions" during his cross-examination of Pahl prevented him from "probing credibility, testing factual assertions, and clarifying inconsistencies central to the court's ultimate findings." However, Miescke does not on appeal identify what additional relevant questions he did not have the opportunity to ask Pahl in cross-examination. As noted, the court brought to Miescke's attention the issues that the court deemed most relevant to the emergency request at issue, but Miescke did not question Pahl about those issues, nor does he argue on appeal that he had no time to do so. The record also shows that Miescke had sufficient time to thoroughly cross-examine Pahl regarding the topics and exhibits that he indicated were relevant to him, presenting, as he told the court, "the last thing I have," towards the end of his cross-examination. Even then Miescke continued to question Pahl before the court ended the cross-examination so that the court could hear the GAL's recommendation in the time remaining for the hearing. The transcript of the hearing does not support Miescke's argument that any imbalance in the hearing time between the parties prevented him from presenting his case or that the court's "interruptions" during cross-examination were made without a reasonable basis.

¶60 Miescke also argues that the circuit court erred when it denied his request to present rebuttal testimony by his father. In support of this argument, Miescke asserts that the court said: "No. I'm not taking any testimony." But Miescke's citation to the record shows no such statement. Rather, as summarized above, the court denied Miescke's request because his father had not been sequestered and had been present in the courtroom throughout the hearing. As Pahl notes, Miescke did not identify his father as a witness before the hearing, even as Miescke had been fully apprised well before the hearing of the concern for the child's safety alleged in the pleadings that Pahl filed in support of her request

for modification of legal custody and physical placement. In short, Miescke’s argument relies on a misrepresentation of the record, and the court had a reasonable basis for not allowing Miescke’s father to testify.

¶61 Miescke further argues that the circuit court erred when it denied his request to make a closing statement after the court issued its ruling, explaining that “I have already made my decision.” In support of this argument, Miescke asserts that the court’s denial deprived him of the opportunity to “respond to adverse factual assertions, correct misstatements relied upon by the court, or preserve objections on the record.” However, the time for him to present evidence in his favor and to make objections was during the hearing, not after the court issued its ruling, and Miescke cites no legal authority supporting his argument to the contrary.

¶62 To the extent that Miescke may also be arguing that he was denied his right to testify at the hearing, the record refutes such an argument. The court expressly asked Miescke if he intended to testify, and he answered, “No.”

¶63 For the reasons stated, Miescke fails to show that the circuit court erroneously exercised its discretion in controlling the parties’ presentation of evidence at the August 2025 hearing, in not allowing Miescke’s father to testify as a rebuttal witness, and in not allowing Miescke to present additional argument after it issued its ruling.

C. Circuit court erred in denying continuance to obtain counsel

¶64 Miescke argues that the circuit court erroneously exercised its discretion when it denied a continuance of the hearing for Miescke to obtain counsel.

¶65 A decision to grant or deny a continuance lies within the sound discretion of the circuit court and will be set aside only if there is an erroneous exercise of discretion. **Robertson-Ryan & Assocs., Inc. v. Pohlhammer**, 112 Wis. 2d 583, 587, 334 N.W.2d 246 (1983). A court erroneously exercises its discretion if it fails to exercise its discretion or if it has no reasonable basis for its decision. **Id.** We will sustain the circuit court’s discretionary decision if the court “examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.” **Liddle v. Liddle**, 140 Wis. 2d 132, 136, 410 N.W.2d 196 (Ct. App. 1987).

¶66 Here, the circuit court granted Miescke’s previous attorney’s motion to withdraw from representing Miescke, other than on a limited basis, on June 17, 2025. Pahl filed her request for emergency modification of legal custody and physical placement on August 14, 2025. On August 15, 2025, the court scheduled a hearing on Pahl’s request for August 27. In a letter to the court dated August 21, 2025, Miescke asked the court to continue the hearing until after new counsel, which he was “actively seeking,” could appear. At the start of the hearing, the court denied his request, explaining that Miescke’s previous attorney had withdrawn in June, that the hearing concerned a matter of an emergency nature, and that it was necessary to hear from the parties on the matter as scheduled. In its written order, the court specifically found that Miescke had sufficient opportunity to obtain new counsel and that it was necessary to proceed because the matter concerned an emergency related to the child.

¶67 On appeal, Miescke asserts that the circuit court’s denial of his request for a continuance prejudiced his ability to present a defense, secure witness testimony, present documentary evidence, and meaningfully rebut Pahl’s claims. However, acting pro se, Miescke had in response to Pahl’s request filed a

detailed brief with exhibits opposing Pahl’s request as well as a motion to dismiss and a motion for stay. He also extensively cross-examined Pahl and introduced exhibits at the hearing. Miescke does not support his conclusory assertion by identifying any additional defense or evidence that he was not able to present in responding to Pahl’s allegations about his inappropriate behavior during the child’s placement, his interference with the child’s therapy and medical appointments and day care, and his threatening statement to the child. Moreover, Miescke does not make an argument that in denying his request the court applied a wrong legal standard, relied on non-record facts, or lacked an explanation and reached an unreasonable conclusion. In short, he fails to show that the court erroneously exercised its discretion in denying his request for a continuance.

D. Circuit court improperly credited GAL’s recommendation

¶68 Miescke argues that the circuit court improperly credited the GAL’s recommendation, specifically, the GAL’s “offer of proof” regarding the therapist’s report, without requiring supporting testimony, evidentiary development, or an actual investigation, and without addressing his pending challenges to the GAL’s appointment.

¶69 We pause to clarify what constituted the GAL’s recommendation at the August 2025 hearing; specifically, we clarify that the therapist’s report as presented by the GAL was not an offer of proof as statutorily defined, but was accepted by the circuit court as part of the GAL’s recommendation to the court.

¶70 Under WIS. STAT. § 901.03(1)(b), an offer of proof is a means to preserve for appeal the issue of whether excluded evidence should have been admitted. Here, the circuit court did not exclude any evidence. Rather, as related in the background above, Pahl’s attorney, the GAL, and Miescke agreed that,

while the child’s therapist was available to testify, the therapist should not testify out of concern for the risk of damaging the therapeutic relationship. Accordingly, pursuant to that agreement, the court directed the GAL to report what the therapist told the GAL about the emergency request at issue. While the GAL referred to her report as “an offer of proof,” there was no offer of proof by the GAL under the statutory definition of the phrase. Rather, the parties agreed that the GAL could report what the therapist told her, and the court heard that report as part of the GAL’s recommendation. With this clarification, we proceed to address Miescke’s arguments that the court erred in doing so.

¶71 As stated, Miescke faults the circuit court for crediting the GAL’s recommendation based on the therapist’s report as presented by the GAL, without any proper evidentiary support. But, Miescke did not object to the court allowing the GAL to present the therapist’s report as part of her recommendation. Accordingly, he has forfeited the objections he makes on appeal, and we reject his argument on that basis. See *State v. Freymiller*, 2007 WI App 6, ¶¶15-17, 298 Wis. 2d 333, 727 N.W.2d 334 (2006) (appellate courts typically decline to review issues on which the appellant has forfeited any objection by failing to object or invited the error by affirmatively approving it in the circuit court). Nor did he present evidence at the hearing so as to render clearly erroneous the court’s crediting the GAL’s recommendation including the therapist’s report and weighing it against Miescke. Accordingly, we reject his argument for this reason as well.

¶72 Miescke also argues that the circuit court did not address challenges that he made in other filings to the GAL’s appointment. But he does not explain how those challenges relate to the court crediting the GAL’s recommendation

including the therapist's report. Accordingly, we reject this additional argument as undeveloped.

E. Circuit court improperly discounted significance of outcome of CPS report

¶73 Miescke argues that the circuit court improperly discounted the significance of the determination by CPS to “screen out” and close, without further investigation, the report of Miescke's inappropriate behavior as related by the child to the therapist.

¶74 At the hearing, when the GAL as part of her recommendation recounted the therapist's report of Miescke's inappropriate behavior, the circuit court asked if the therapist had reported the behavior to CPS. The GAL informed the court that the therapist had reported the behavior and the report had been screened out because, as she understood from CPS, “there's a high bar for sexual abuse and this was in a gray area, and they felt that the report was reflective of a mental health problem that the father had ... [and] there wasn't physical proof.”

¶75 In its oral ruling, the circuit court addressed the fact that the case was screened out as follows. The court noted that the therapist “had such a significant concern” about Miescke's inappropriate behavior related by the child that the therapist reported it to CPS, “but it was screened out due to the high bar for a CPS complaint and no, quote, evidence.” The court explained:

A screen out by CPS means almost nothing in this case. As a judge for 12 years, most of them in the civil division and family court and some on criminal, I have seen numerous cases of abuse being screened out by CPS only to later have something more tragic follow. As a judge acting in the best interest of [the child], I cannot ignore [the therapist's] significant concerns about [the child's] safety with [Miescke].

The court further noted that Miescke chose not to testify and did not say that none of the behavior reported by the therapist happened; nor did he ask Pahl any questions regarding the therapist's concerns.⁶

¶76 Miescke argues that the circuit court erred in discounting CPS's determination to screen out the therapist's report when there was no documentary evidence presented at the hearing of the CPS determination or testimony by a witness from CPS, and based on the court's own judicial experience instead of an evidentiary record. However, he cites to no evidence or testimony contesting the GAL's report to the court of the CPS determination. Nor does he cite to evidence or testimony providing a basis for this court to determine that the circuit court erred in according little weight to the CPS determination and greater weight to the therapist's concerns and to Pahl's testimony about his inappropriate behavior. See *Jacobson v. American Tool Cos., Inc.*, 222 Wis. 2d 384, 390, 588 N.W.2d 67 (Ct. App. 1998) ("As part of our analysis, we will accept the circuit court's determination as to weight and credibility."). Even had the circuit court not discredited the CPS determination, Miescke fails to show that it was clearly erroneous for the court to rely on his failure to testify or cross-examine Pahl about the substance of the therapist's report to CPS or Pahl's direct testimony regarding his own behavior. For all these reasons, Miescke fails to show that the court erred

⁶ Miescke only cross-examined Pahl as to the fact that, after she filed her request to change physical placement based on her concerns for the child's safety in light of Miescke's recent inappropriate behavior, she complied with the physical placement schedule without objection. The circuit court found, based on Pahl's testimony in response to Miescke's questioning, that Pahl did so because the court had not signed her proposed order to require supervised placement pending a hearing on her request. Miescke does not argue that this finding was clearly erroneous or otherwise address this aspect of Pahl's testimony in his appellate briefing.

in weighing the CPS determination less heavily than other evidence and the GAL's recommendation presented at the hearing.

¶77 Miescke further argues that the circuit court ignored the record showing that Pahl made “at least five CPS reports during the course of custody litigation” and that CPS had screened out all five as unsubstantiated. However, Miescke cites to the appellate record, rather than to the evidence presented at the hearing. He fails to show that the court disregarded the record developed at the hearing.

F. Circuit court improperly relied on stale evidence

¶78 Miescke argues that the circuit court improperly relied on one old incident of his interference with the child's therapy.⁷

¶79 In its oral ruling, as stated, the circuit court found that Miescke interfered with the child's medical appointments and therapy, citing as the most recent example his unilateral decision to cancel a medical appointment that Pahl made for the child after she notified him that she was using her impasse authority to make that appointment. The court also cited as a past example of Miescke's interference his filing of a grievance against a previous therapist, which, according to the court, destroyed the child's therapeutic relationship with that therapist.

¶80 At the hearing, Pahl testified about the latter incident. Specifically, Pahl testified that Miescke “managed to get [the child] discharged” from treatment

⁷ In this part of his appellant's brief, Miescke also reiterates his assertions that the circuit court improperly discounted CPS's screen-out determination and improperly relied on Pahl's testimony about him cancelling the child's medical appointment. We have addressed and rejected his arguments regarding these assertions above.

with a therapist with whom the child had an established relationship by filing a grievance against the therapist, and that it took “quite a while” to find a new therapist for the child. Miescke objected based on “[s]peculation for cause.” The circuit court overruled the objection, explaining that this incident had been testified to at a prior hearing and was “well established.”

¶81 Miescke argues that the circuit court erroneously overruled his objection, but he does not cite any supporting legal authority. Instead, he misrepresents the court’s explanation as foreclosing reconsideration of unspecified issues relating to the child’s therapy, and argues that “new evidence” since the prior testimony about the grievance incident contradicted the court’s finding that his grievance caused the disruption in the child’s therapy. However, he does not cite to evidence presented at the hearing calling into question that finding.

¶82 In sum on this issue, Miescke’s argument fails for lack of support by legal authority and the record.

G. Circuit court erred in not hearing Miescke’s pending motions filed after the court’s oral ruling dismissing his prior motion to modify legal custody and physical placement

¶83 Miescke argues that the circuit court erroneously exercised its discretion in not hearing his emergency motion to modify physical placement and for interim relief, or his motion to file supporting exhibits under seal. Those motions were filed on July 28, 2025, and Miescke does not direct us to a record item showing that the court scheduled them to be heard at the August 27 hearing. At the start of the August 27 hearing, the court said that it set the hearing to address Pahl’s request for emergency relief modifying legal custody and physical placement. Pahl’s counsel noted that there were also pending motions to compel

and for contempt concerning GAL fees; the court responded that it would not likely have time to address those motions, and that the court commissioner could address them at a hearing on September 2. Miescke did not raise his motions at that or any other time during the August 27 hearing. Miescke fails to show that the court erroneously exercised its discretion in not addressing motions that were not scheduled to be heard.

H. Circuit court issued temporary order with no review mechanism

¶84 Miescke argues that the circuit court characterized its order as interim or temporary but did not provide for a review hearing, compliance check, subsequent evidentiary proceeding, or timeline for review or modification or reconsideration. Miescke mischaracterizes the order and disregards the statutory review mechanism that applies to the court's order.

¶85 Miescke provides no record support for his assertion that the circuit court characterized its order as interim or temporary. The citation to the court's ruling that he does provide contains no such words or characterization. Rather, the court identified the two requests before it—to modify legal custody to award sole legal custody to Pahl, and to modify physical placement to order supervised placement. The court then proceeded to explain its determination that the evidence established a substantial change in circumstances and that it is in the child's best interest to grant both requests. Miescke points to nothing in the court's ruling, or in the written order that followed, indicating that the order is interim or temporary.

¶86 As Miescke himself states, the statutory standard for modifying legal custody and physical placement is a substantial change in circumstances, as stated in WIS. STAT. § 767.451(1)(b). The written order sets forth the specific conditions

that Miescke must meet to show a substantial change in circumstances “for the purpose of reviewing” the terms in the order.

¶87 Miescke’s arguments on this issue are baseless.

I. Circuit court improperly ordered that Miescke pay GAL fees

¶88 Miescke argues that the circuit court improperly ordered that he pay all of the GAL fees without requiring evidence and making findings regarding his ability to pay, causation, and “allocation factors.”⁸

¶89 The allocation of GAL fees is a matter within the circuit court’s discretion. *See* WIS. STAT. § 767.407(6) (“The court shall order either or both parties to pay all or any part of the compensation of the guardian ad litem.”).

¶90 Here, the circuit court found that it was Miescke’s behavior that necessitated the reappointment of the GAL. For that reason, the court ordered that Miescke reimburse Pahl for the retainer that she paid the GAL when the GAL was reappointed, and that Miescke pay the full amount of GAL fees going forward.

¶91 Miescke’s argument that the circuit court erroneously exercised its discretion in doing so fails for at least the following reasons. Miescke did not raise his ability to pay, causation, or “allocation factors” in the circuit court, either at the hearing or in a motion for reconsideration, and we will not blindsides the circuit court with resolution of an argument that was not presented to it. *See*

⁸ Miescke also includes in this argument the circuit court’s order that he pay all expenses related to the supervision of his placement. However, he does not make an argument addressed to the supervision expenses separately from his argument about the GAL fees. Accordingly, we refer solely to the GAL fees.

Schonscheck v. Paccar, Inc., 2003 WI App 79, ¶11, 261 Wis. 2d 769, 661 N.W.2d 476 (“A fundamental appellate precept is that we ‘will not ... blindsides trial courts with reversals based on theories which did not originate in their forum.’”) (quoted source omitted). Nor does Miescke support this argument with citation to relevant legal authority, and we generally do not consider arguments unsupported by legal authority. See **Industrial Risk Insurers**, 318 Wis. 2d 148, ¶25. And, Miescke disregards the record, which shows that the court explained that it ordered that he pay the GAL fees because his behavior caused the need for the reappointment of the GAL. Accordingly, this argument fails for lack of record support and legal authority.

J. Cumulative errors require reversal or remand

¶92 Miescke argues that all of the asserted errors identified above warrant reversal or remand. Because we have rejected his arguments about those asserted errors, there is no basis for reversal or remand.

III. Motion for fees and costs for frivolous appeal

¶93 Pahl has moved for fees and costs based on a claim that Miescke’s appeal is frivolous under WIS. STAT. RULE 809.25(3). “Whether an appeal is frivolous is a question of law.” **Kraemer v. Traun**, 2025 WI App 8, ¶55, 415 Wis. 2d 125, 17 N.W.3d 49 (2024). “Sanctions for a frivolous appeal will be imposed if the court concludes that the party ‘knew, or should have known, that the appeal ... [had no] reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification, or reversal of existing law.’” **Id.** (citing RULE 809.25(3)(c)2.). While “we give some allowance to pro se parties, the standard is objective, so we must examine what a reasonable person ‘in the position of this pro se litigant kn[e]w or [should] have known about

the facts and the law relating to the arguments presented.”” *Id.* (quoted source omitted). This court awards attorney fees under RULE 809.25 only when the entire appeal is frivolous. *Thompson v. Ouellette*, 2023 WI App 7, ¶30, 406 Wis. 2d 99, 986 N.W.2d 338.

¶94 As explained above, Miescke’s arguments misrepresent or mischaracterize the record, disregard our standard of review, are conclusory, or are unsupported either by the record or by citation to relevant legal authority. We discern no reasonable basis in law or equity for his arguments, and no reasonable basis in his arguments for an extension, modification, or reversal of existing law. For these reasons, we conclude that Miescke’s entire appeal is frivolous and grant Pahl’s motion for costs and fees. We remand to the circuit court to assess costs and fees as allowed by WIS. STAT. RULE 809.25(3).

CONCLUSION

¶95 For the reasons stated, we affirm the circuit court’s August and October 2025 orders. We separately grant Pahl’s motion for costs and attorney fees based on our determination that Miescke’s entire appeal is frivolous, and we remand to the circuit court to assess costs and fees as allowed by WIS. STAT. RULE 809.25(3).

By the Court.—Orders affirmed and cause remanded.

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

