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DISTRICT I

October 27, 2026

To:

Hon. Cynthia M. Davis
Circuit Court Judge
Electronic Notice

Robert Rondini
Register in Probate
Milwaukee County Courthouse
Electronic Notice

David Malkus
Electronic Notice

A. P.

Silver Spring Health Care Center
1300 W. Silver Spring Drive
Milwaukee, WI 53209

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

2026AP909-NM In the matter of the guardianship and protective placement of A.P.: Silver Spring Health Care Center v. A.P. (L.C. # 2025GN125)

Before Colón, P.J., Geenen, and Petrashek, JJ.

Summary disposition orders 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).

A.P. appeals orders for permanent guardianship of both the person and the estate, and protective placement. Her appellate counsel, Timothy C. Drewa,[1] has filed a no-merit report pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and WIS. STAT. RULE 809.32 (2023-24).[2]

[1] Attorney Drewa filed the no-merit report but has since withdrawn as A.P.'s counsel. The Office of the State Public Defender has appointed successor counsel, David Malkus, for A.P.

[2] All references to the Wisconsin Statutes are to the 2023-24 version.

A.P. did not file a response to the report. Based on an independent review of the record and the no-merit report, this court concludes that there are no arguable appellate issues. Therefore, the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21(1).

In March of 2025, Silver Spring Health Care Center filed petitions seeking the appointment of a permanent guardian of the person and of the estate for A.P., as well as an order for her protective placement. The petitions and supporting documentation alleged that A.P. was admitted to Silver Spring in April of 2023, following a hospital stay. A.P. reportedly had a history of refusing medication and not completing insurance paperwork that would assist with financial obligations related to her care.

Accompanying the petitions was an examining clinical psychologist's report prepared by Dr. Michael L. Kula, who evaluated A.P. and her medical history. Dr. Kula noted that A.P., who was 81 years old at the time of the evaluation, demonstrated neurocognitive deficits that were "significant, pervasive and irreversible in nature." He diagnosed her with major neurocognitive disorder due to Alzheimer's etiology as well as bipolar disorder.

The circuit court ordered a comprehensive evaluation by the county under WIS. STAT. § 55.11. Randi Colores, who is employed by Milwaukee County Aging and Disabilities Services, prepared the evaluation, which recommended that A.P. be protectively placed because of her major neurocognitive disorder. Colores concluded that A.P. was dependent on assistance for nearly all activities of daily living (ADLs) and instrumental activities of daily living (IADLs), lacked appropriate insight into her deficits, and would be at a substantial risk of harm to herself if left without protective placement.

The matter was scheduled for a contested jury trial. At the trial, Silver Spring presented testimony from Toccara Gordon, its director of social services, who testified that A.P. required total care, was entirely bedbound, and required a mechanical lift with a two-person assist for any mobility or transfers. Gordon detailed a persistent pattern of medical noncompliance, stating that A.P. regularly refused medications, blood draws and other lab work, showers, skin checks for bedsores, and therapy due to paranoid thinking regarding the facility staff.

Dr. Kula and Colores offered trial testimony that was consistent with their previously submitted written evaluations. Additionally, Silver Spring called its business office manager, Kristin Wenzel, as a witness. Wenzel testified that she had approached A.P. 15 to 20 times to gather records for a Medicaid application, but A.P. repeatedly refused to cooperate, resulting in a large unpaid cost-of-care balance owed to the facility. Wenzel further noted that while A.P.'s daughter was A.P.'s designated power of attorney, she was largely unresponsive to Silver Spring's requests for assistance in submitting the required Medicaid paperwork.

A.P. testified on her own behalf, expressing a strong desire for independence and a goal to eventually move into her own home. A.P. testified that she would be willing to take medication but said that she caught staff attempting to give her incorrect medications on more than one occasion.

At the close of the petitioner's evidence, A.P. moved to dismiss the petitions on the grounds that the facility failed to honor her advance planning. The circuit court denied A.P.'s motion.

The jury subsequently returned a unanimous verdict finding that A.P. was incompetent as to both her person and her estate at the time of the hearing, that her condition was permanent or

likely to be permanent, and that she required protective placement. Consequently, the circuit court entered judgment on the verdict, granting the petitions for permanent guardianship and protective placement. The court ordered ANS Guardianship Services as the permanent guardian of both the person and the estate. As a modification supported by the trial evidence and agreed upon by the parties, the court ordered that A.P. retain her right to vote and her right to marry, to be exercised with the consent of her guardian, and her right to consult with her guardian. This no-merit appeal follows.

We agree with appellate counsel's thorough analysis that there are no issues of arguable merit to challenge the circuit court's orders in this matter. The no-merit report discusses whether the evidence was sufficient to support the elements necessary for guardianship and protective placement pursuant to WIS. STAT. §§ 54.10(3), 55.06, and 55.08(1). Upon reviewing the record, we agree with counsel's analysis and conclusion that there was sufficient evidence to support the circuit court's guardianship and protective placement orders.

Additionally, the no-merit report discuses whether the circuit court erred when it denied the motion to dismiss the petitions for guardianship and protective placement on grounds that Silver Spring failed to honor A.P.'s advance planning. A.P.'s trial counsel argued that the proceedings should be dismissed because A.P. had engaged in proactive advance planning by executing valid healthcare and financial durable powers of attorney, which Silver Spring failed to activate or honor before seeking a highly intrusive court intervention. The circuit court denied the motion.

On appeal, this court reviews a circuit court's ruling on a motion after verdict to dismiss under WIS. STAT. § 805.14(1) under a highly deferential standard, affirming the ruling if there is

any credible evidence to support the nonmoving party's claims. ***Miller v. Wal-Mart Stores, Inc.***, 219 Wis. 2d 250, 273, 580 N.W.2d 233 (1998). We agree with counsel's assessment that the circuit court properly applied this framework when it concluded that Wisconsin's statutory scheme does not bar a guardianship petition simply because a proposed ward has executed advance planning documents. *See* WIS. STAT. § 54.10(3)(c)3 (providing that a court appointing a guardian shall consider whether the proposed ward has engaged in any advance planning, such as power of attorney). The circuit court explained that the existence of power of attorney is a consideration for the court, but it does not preclude the appointment of a guardian. Viewing the trial record in the light most favorable to Silver Spring, it introduced sufficient credible evidence demonstrating that A.P.'s advance planning instruments had failed and could not effectively meet her ongoing needs.

Regarding statutory deadlines and procedural requirements, A.P. was personally served with a copy of the petitions. The circuit court appointed a guardian *ad litem* and advocacy counsel for A.P. Upon the agreement of the parties, the circuit court granted an extension of the time limits under WIS. STAT. § 55.10(1). The jury trial was held within the required time limits. *See* WIS. STAT. §§ 54.44(1) and 55.10(1). We discern no issues of arguable merit with respect to the statutory deadlines or the procedures used in this case.

Our independent review of the record discloses no other potential issues of arguable merit.

Therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney David Malkus is relieved of further representation of A.P. in this matter. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals