COURT OF APPEALS
DECISION
DATED AND FILED

November 10, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2025AP1348 **Cir. Ct. No. 2015GN125**

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

IN THE MATTER OF THE GUARDIANSHIP OF I. S. R. Z.:

G. Z.,

PETITIONER-APPELLANT,

V.

BROWN COUNTY ADULT PROTECTIVE SERVICES,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Brown County: BEAU G. LIEGEOIS, Judge. *Affirmed*.

Before Stark, P.J., Hruz, and Gill, 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. Gary,[1] pro se, appeals from a circuit court order suspending him as Isaac's guardian for a period of six months pursuant to WIS. STAT. § 54.68(4)(e). Gary's appeal largely challenges the court's findings of fact from an evidentiary hearing. We conclude that the record supports the court's findings of fact, and we affirm.

BACKGROUND

¶2 Isaac was adjudicated as an incompetent adult by the circuit court in August 2015 based on his schizoaffective disorder, and Gary, Isaac's father, was appointed legal guardian of Isaac's person and estate.

¶3 On March 10, 2025, Brown County Adult Protective Services filed a petition for review of Gary's conduct as guardian, alleging that Gary "abused or neglected the ward or knowingly permitted others to do so"; "failed to exercise due diligence and reasonable care ensuring that the ward's personal needs are being met"; "failed to act in the best interest of the ward"; and "failed to perform any duties of a guardian or performed acts prohibited to a guardian." The County moved the circuit court to find good cause to remove Gary as Isaac's guardian.

¶4 In an attachment to the petition, the County detailed its allegations against Gary. The County alleged that "[t]here are documented reports noting that [Gary] has not been accepting services in the home for [Isaac] that are appropriate for his needs and is unwilling to consent to allow [Isaac] placement with a

[1] Pursuant to WIS. STAT. RULE 809.19(1)(g) (2023-24), we use pseudonyms to refer to the ward and his former guardian.

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

provider at an adult family home." Furthermore, the County stated that there were reports that Gary "does not believe that [Isaac] has [a] mental health diagnosis and has either weaned [Isaac] down on doses of psychiatric medications or taken him completely off of them." According to the County, Gary "is not willing to work with providers to find an appropriate safe setting [for Isaac], nor is he willing to give consent to providers for psychiatric medications which [Isaac] needs to manage his mental health symptoms." The County further asserted that Gary had "enrolled and disenrolled in managed care organizations [(MCOs)] over the past couple years and refuses services." Lastly, the County alleged instances in which Isaac physically assaulted Gary and Gary became verbally and physically abusive toward Isaac's treatment staff.

¶5 The circuit court held an evidentiary hearing on the County's petition. *See* WIS. STAT. § 54.68(3). Following the evidentiary portion of the hearing, which we outline in greater detail below, the court issued an oral ruling finding that Gary was not acting in Isaac's best interests. The court summarized the County's allegations into three categories: (1) Isaac's physically assaultive acts against Gary; (2) Gary's inappropriate behavior with treatment providers; and (3) Gary's obstructive behavior surrounding Isaac's placement.

¶6 Concerning Isaac's physically assaultive acts against Gary, the circuit court found that the acts were "very significant incidents." The court stated that on the occasion when law enforcement responded, Isaac could have been killed by officers. According to the court, the three incidents, when coupled with Gary's desire to have Isaac return home, demonstrated that Gary had failed to act in Isaac's best interests. In addition, the court found that Gary's behavior with the treatment providers was "pretty inappropriate." The court found that Gary's behavior toward treatment providers was not in Isaac's best interest because it was

"directly limiting [Isaac's] potential placements." Finally, the court found that Gary had obstructed Isaac's placement.

¶7 The circuit court did not remove Gary as Isaac's guardian, but it did suspend his role for six months and appoint a temporary guardian in his place. The court stated that it would review the suspension in six months.[2] The court further ordered Gary to attend an anger management course "to help deal with the treatment providers in a more constructive manner," and it ordered him to take a guardianship assessment. Thereafter, the court entered a written order consistent with its oral ruling.

¶8 Gary now appeals.

DISCUSSION

I. Due process

¶9 Gary first contends that his due process rights were violated when the parties held an off-the-record pretrial conference, depriving him of meaningful appellate review. Prior to the evidentiary hearing on the County's petition, Gary's attorney requested a "counsel-only pretrial conference to discuss and receive rulings on pending motions and to hopefully restrict the scope of the pending trial." Counsel further stated that the "pretrial conference could be held in chambers with a record subsequently made to document the Court's findings." The pretrial conference was held two weeks prior to the evidentiary hearing, and,

[2] Gary has since been removed as Isaac's guardian, and the circuit court's decision to remove him is the subject of a separate appeal. The County has not argued that Gary's challenge in this appeal is moot as a result of the court removing Gary as guardian.

at the hearing, the County and Gary's attorney reviewed, on the record, the substance of the conference and the circuit court's pretrial rulings.

¶10 At the evidentiary hearing, Gary's attorney referenced that the circuit court had, for example, denied his motion to produce documents because the court "had essentially found that [Gary's attorney] could get that information through other means." Gary's attorney stated that he was subsequently granted access to the desired documents, which was consistent with the court's written order denying the motion. The parties also recounted that the court had denied Gary's attorney's "motion to enforce" Gary's "statutory rights and for an injunction requiring the County to assist … [Gary] in his duties" because it became moot when Isaac had transferred facilities. The court had also entered a written order on that motion, stating that it was denied because "[m]any of the issues reported by counsel for guardian are moot after transferring facilities. Counsel for guardian is unable to articulate any powers or duties being denied at the ward's present facility."

¶11 On appeal, Gary asserts that the parties' "brief comments" at the evidentiary hearing summarizing the pretrial conference "deprived this Court of the ability to determine the correctness of the rulings made during the conference," in violation of his due process rights. (Formatting altered.) Gary takes particular issue with the circuit court's denial of his attorney's motions for the production of documents and to "enforce." In support of his position, Gary cites WIS. STAT. § 54.68(3), which states that a circuit court shall hold a hearing upon the filing of a petition for review of a guardian's conduct. Section 54.68(3) further states that the guardian shall be provided notice of the hearing.

¶12 We agree with the County that there is no merit to Gary's claims that his due process rights were violated. Having requested an off-the-record pretrial conference, Gary cannot now, on appeal, argue that the conference should have been held on the record.[3] *See* ***Cascade Mountain, Inc. v. Capitol Indem. Corp.***, 212 Wis. 2d 265, 269, 569 N.W.2d 45 (Ct. App. 1997) (stating that "[a] party cannot complain about an act to which he or she deliberately consents").

¶13 Gary's reliance on WIS. STAT. § 54.68(3) is misplaced because the circuit court *did* hold a hearing under that statute. At the hearing, Gary testified, presented evidence, and cross-examined the County's witnesses. *See* ***Mathews v. Eldridge***, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" (citation omitted)). Further, Gary had notice of the pretrial conference and was represented by counsel during that conference. He therefore had notice and a right to be heard on the issues considered by the circuit court at the pretrial conference. *See* ***id.***

¶14 We further note that both motions with which Gary takes issue are included in the record, and the basis for the circuit court's denial of those motions is also in the record. Gary does not challenge the accuracy of the statements placed on the record during the evidentiary hearing memorializing the substance of the pretrial conference and the court's decisions made at the conference. In addition, Gary does not challenge the court's denial of either motion, although

[3] We note, as does the County, that Gary does not argue that his attorney was ineffective or that he could be entitled to relief based on ineffective assistance.

there was an adequate record for him to do so.[4] Regardless, both motions appear to be moot because Gary's counsel ultimately received the documents he sought and Isaac was transferred to another facility. Similarly, Gary does not explain what relief could be granted if the motions were improperly denied. On this record, we conclude that Gary's due process rights were not violated.

II. Sufficiency of the evidence

¶15 Gary further argues that the evidence at the evidentiary hearing was insufficient to warrant suspending him as Isaac's guardian. A circuit court has discretionary authority to remove a guardian for cause pursuant to WIS. STAT. § 54.68(4), which provides that "after finding cause as specified in sub. (2)," a circuit court "may" choose from a number of remedies, including removing the guardian or entering "any other order that may be necessary or appropriate to compel the guardian to act in the best interests of the ward or to otherwise carry out the guardian's duties." *See also* ***Rose v. C.R.R.***, 2025 WI App 52, ¶13, 418 Wis. 2d 155, 25 N.W.3d 293, *review denied*, 2026 WI 7, 32 N.W.3d 762.

[4] For the first time in his reply brief, Gary cites ***D.L. v. Huebner***, 110 Wis. 2d 581, 597, 329 N.W.2d 890 (1983), for the proposition that "when an appeal is brought on a partial transcript, the court will assume that every fact essential to sustain the trial judge's exercise of discretion is supported by the record." Gary appears to rely on ***D.L.***, as well as ***State v. Sullivan***, 216 Wis. 2d 768, 774, 576 N.W.2d 30 (1998), to support his claim that even if he were to challenge the circuit court's denial of his two motions, we would assume that the record supports the court's rulings because there is no transcript of the court's reasoning, thus depriving him of his due process right to a full and thorough review of the circuit court's decisions.

We need not address this argument for four reasons. First, as explained, Gary's counsel requested an off-the-record pretrial conference, and Gary does not challenge the effectiveness of his counsel's representation. Second, the parties and the court subsequently made a record of the basis for the court's denial of the motions. Third, Gary does not challenge on the merits the court's denial of his two motions. And fourth, Gary raised this argument for the first time in his reply brief. *See* ***Northern States Power Co. v. National Gas Co.***, 2000 WI App 30, ¶21 n.6, 232 Wis. 2d 541, 606 N.W.2d 613 (1999) (stating that we do not "consider arguments made for the first time in a reply brief to which the respondent does not have the opportunity to respond").

Section 54.68(2) lists eleven acts that constitute cause for a remedy under § 54.68(4), including a guardian's "[f]ailing to act in the best interests of the ward." Sec. 54.68(2)(g). We will uphold the court's decision to impose a remedy under § 54.68(4) "if it is rational and based on an application of the correct legal standard to the facts in the record. 'We accept all findings of fact made by the circuit court unless they are clearly erroneous.'" ***Rose***, 418 Wis. 2d 155, ¶13 (citations omitted).

¶16 Gary concedes that the record supports the circuit court's finding that Isaac physically assaulted him on three occasions. However, Gary contends that the court erroneously found that he "wanted his son returned … home immediately." In particular, the court found that Gary was "co-mingling the duties of a father with the duties of … a guardian" and that while Gary, as a father, wanted Isaac to return home, no reasonable guardian "would think that a home placement is something that is in the near future after that many assaultive incidents."

¶17 We conclude that the circuit court's findings are supported by the record. Robin Schwartz, a case worker for the County, testified that Gary "indicate[d]" to her on more than one occasion "that he wanted to return his son home" because "[Isaac] belonged with family." Similarly, Eliza Killian, a behavioral health manager for the County, testified that Gary twice expressed to her his desire to have Isaac returned home because Gary felt that "[Isaac] should be with his family." Killian further stated that Gary was "eager" to "get [Isaac] home soon." And the court took judicial notice of a "condition of the ward" document filed by Gary on May 2, 2025, five days before the evidentiary hearing, in which Gary stated that his "recommendations" regarding Isaac were to "do a med wash – return to home." (Formatting altered.)

¶18 While Gary cites evidence, including his own testimony, showing that he wants Isaac to return home *eventually*—as opposed to immediately or in the near future—the circuit court was not required to accept that evidence as true. The court was well within its authority to weigh the evidence and credibility of the witnesses to find that Gary wanted Isaac returned home "in the near future." *See* ***Dickman v. Vollmer***, 2007 WI App 141, ¶14, 303 Wis. 2d 241, 736 N.W.2d 202 (stating that, on appeal from a bench trial, "[w]e do not reweigh the evidence or reassess the witnesses' credibility"); ***Jacobson v. American Tool Cos.***, 222 Wis. 2d 384, 390, 588 N.W.2d 67 (Ct. App. 1998) ("If a circuit court does not expressly make a finding about the credibility of a witness, we assume it made implicit findings on a witness'[s] credibility when analyzing the evidence.").

¶19 Next, Gary challenges the circuit court's finding that he acted inappropriately toward treatment staff. Again, however, Gary supports his argument by effectively asking this court to reweigh the evidence and the credibility of the witnesses, which we will not do. *See* ***Dickman***, 303 Wis. 2d 241, ¶14.

¶20 Jennifer Welhouse, a care manager at Lakeland Care (an MCO), testified that Gary threatened to "eliminate" her and that Gary's statement was not made in the context of changing MCOs. In addition, Welhouse stated that one placement option for Isaac, called Homes for Independent Living, would not accept him because "of guardian issues." When asked to expound on this statement, Welhouse testified that Homes for Independent Living was concerned

about losing staff, in part, because Gary "yells at the staff."[5] Applying the correct standard of review, the evidence presented at the hearing supports the circuit court's finding that Gary acted inappropriately toward treatment staff.

¶21 Finally, Gary contends that the circuit court erroneously found that he obstructed Isaac's placement. Welhouse stated that she was assigned to Isaac's case in order to find him a more suitable placement option.[6] According to Welhouse, a deadline was in place to find Isaac a new placement because, at the time, Isaac was living at a respite facility. She further testified that she was unable to locate placement options in Green Bay for Isaac, despite contacting over ten locations. Ultimately, according to Welhouse, she was able to locate a suitable placement option for Isaac in Appleton within the deadline. Welhouse testified that Gary was given the opportunity to visit the placement option, but he declined, stating that Isaac "would not move to Appleton." Instead, Gary disenrolled in Lakeland Care the day before Isaac was scheduled to move into the new placement. Once Isaac was disenrolled, Welhouse lost the authority to find a placement for Isaac.

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[5] Gary argues that Welhouse's testimony concerning Homes for Independent Living "should be discounted as lacking proper foundation." Gary failed to preserve this issue for appeal by objecting at the evidentiary hearing. *See* ***State v. Mercado***, 2021 WI 2, ¶¶35-37, 395 Wis. 2d 296, 953 N.W.2d 337 (discussing forfeiture in the context of a party failing to object to the admission of evidence under WIS. STAT. § 901.03(4)). We note that Gary does not argue for reversal under the principles of plain error or the interest of justice.

Without citation to specific testimony, Gary further contends that "[m]ost of the testimony by county employees was hearsay." Gary's attorney did make numerous objections to testimony at the evidentiary hearing on hearsay grounds, but Gary fails to develop an argument as to why or how the circuit court erred by overruling those objections. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (declining to address undeveloped arguments supported by only general statements).

[6] Killian also testified that two doctors had recommended that Isaac be placed in a group home environment.

¶22 In addition, Schwartz testified that Gary's action of disenrolling Isaac from Lakeland Care meant that Isaac would remain in a more restrictive environment. Schwartz viewed the disenrollment as Gary "sabotaging" efforts to move Isaac to a less restrictive environment. Similarly, Killian testified that Gary disenrolled Isaac "in order to stop" Isaac from moving to a group home.

¶23 Gary is correct that the evidence demonstrates that he reenrolled Isaac into an MCO eight days after he disenrolled him Lakeland Care. That said, Gary testified that he did not believe a group home setting was appropriate for Isaac despite the doctors' recommendations to the contrary, which supports Schwartz's and Killian's testimony that Gary was attempting to sabotage Isaac's move to a group home. Moreover, the evidence demonstrated that Isaac was subject to a WIS. STAT. ch. 51 commitment at the time of the evidentiary hearing and, pursuant to that commitment, was placed out of Gary's home. Welhouse and Killian testified that once the commitment expired, Gary could remove Isaac from Isaac's placement and return him home.[7] In short, the record supports the circuit court's finding that Gary obstructed Isaac's placement, and we will not reweigh the evidence or second-guess the court's credibility determinations. *See* ***Dickman***, 303 Wis. 2d 241, ¶14.

¶24 Gary further contends, more generally, that "[i]t is part of *any* guardian's duties to determine which [MCO] the ward is enrolled with, and to find

[7] Gary argues that "[f]or the circuit court to say that [his] disagreement with the out-of-town placement was 'obstructive' is to say that [he] does not have the Second Amendment [sic] right to speak his mind in an appropriate manner." To the extent Gary means to raise a First Amendment challenge to the court's order suspending him as guardian, he fails to cite any supporting legal authority or otherwise develop an argument beyond this one-sentence remark. Accordingly, we reject that argument as undeveloped and do not address it further. *See* ***Pettit***, 171 Wis. 2d at 646.

an appropriate placement for the ward." Gary asserts that he "fulfilled these duties appropriately, as he did not believe that a placement outside of Green Bay would be in [Isaac]'s best interests." But the key consideration for a circuit court when deciding whether cause for a remedy exists under WIS. STAT. § 54.68(4) is whether the guardian acted in the ward's best interest—not whether the guardian believed that he or she was acting in the ward's best interest.

¶25 Gary does not dispute that the challenged findings, if not clearly erroneous, show cause that he failed to act in Isaac's best interest. *See* WIS. STAT. § 54.68(2). Nor does Gary argue that the circuit court erroneously exercised its discretion by suspending him as guardian, as opposed to imposing some other remedy. *See* § 54.68(4). Accordingly, having concluded that the challenged findings are supported by the record, we affirm.

By the Court.—Order affirmed.

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