

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**May 15, 2018**

Sheila T. Reiff  
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. 2017AP1283**

**Cir. Ct. No. 2016JI000170**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**IN THE INTEREST OF A.C.D.-T., A PERSON UNDER THE AGE OF 17:**

**L. H.,**

**PETITIONER-RESPONDENT,**

**v.**

**G. D.,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for Milwaukee County:  
JONATHAN D. WATTS, Judge. *Affirmed.*

Before Brennan, P.J., Brash and Dugan, 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. G.D. appeals an order issuing a child abuse injunction against him. He claims the circuit court lost competency to issue the injunction when it continued the evidentiary hearing three times without written consent of the parties.<sup>1</sup> We disagree and affirm.

## I. BACKGROUND

¶2 On October 6, 2016, L.H., the mother of the minor child involved in this matter, filed a petition for a temporary restraining order and child abuse injunction against G.D. The circuit court issued the temporary restraining order and an injunction hearing was scheduled for October 20, 2016.

¶3 At the October 20, 2016 hearing, L.H. testified. Due to the lateness of the morning, the circuit court advised the parties that it would continue the hearing on November 23, 2016.

¶4 On November 23, 2016, L.H. and another witness testified. The circuit court continued the hearing on February 2, 2017, when L.H. and three other witnesses testified. Record entries reflect that the circuit court ran out of time on that date and calendared the case for a continued hearing on March 21, 2017.

¶5 At the continued hearing on March 21, 2017, G.D. objected to telephonic testimony from one of L.H.'s witnesses. As a result, the matter was

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<sup>1</sup> In the conclusion section of his appellate brief, G.D. asserts that the circuit court lost jurisdiction and that the injunction, therefore, should be vacated. This is the only time G.D. mentions jurisdiction. Because he did not develop an argument to support this assertion, we will not address it further. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (court of appeals need not address undeveloped arguments).

continued to April 14, 2017. Prior to that hearing and based on the written stipulation of the parties, the matter was adjourned to May 18, 2017.

¶6 On May 18, 2017, the circuit court heard arguments before granting the petition for an injunction.

¶7 This appeal follows.<sup>2</sup>

## II. DISCUSSION

¶8 G.D. argues that the circuit court lost competency to issue an injunction against him.<sup>3</sup> Although he cites WIS. STAT. § 813.125(3)(c), the statute at issue in this appeal is WIS. STAT. § 813.122(4)(c).<sup>4</sup>

¶9 WISCONSIN STAT. § 813.122(4) provides for the issuance of a child abuse temporary restraining order and (c) details what occurs between the time when a temporary restraining order is issued and the time of an injunction hearing:

(c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction ..., except that the court may extend the temporary restraining order under s. 813.1285. A judge shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended

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<sup>2</sup> G.D.'s one-paragraph statement of the facts falls short of presenting this court with a full picture of the lower court proceedings in this matter. Some of the background information is found in the juvenile court record entries, of which we take judicial notice. *See* WIS. STAT. § 902.01. The only transcript in the record is of the proceedings that took place on May 18, 2017.

<sup>3</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

<sup>4</sup> WISCONSIN STAT. § 813.125 is the statute that controls harassment restraining orders and injunctions. WISCONSIN STAT. § 813.122 is the statute that applies to child abuse restraining orders and injunctions. The statutes are, however, largely identical.

under s. 801.58(2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

¶10 This case requires us to interpret WIS. STAT. § 813.122(4)(c) and apply it to undisputed facts. We review the interpretation and application of a statute *de novo*. See *Gasper v. Parbs*, 2001 WI App 259, ¶8, 249 Wis. 2d 106, 637 N.W.2d 399. We begin with the language of the statute and interpret it according to the plain meaning of its terms. See *id.* If the statute is clear and unambiguous, we apply it to the facts at hand without further analysis. See *id.* The statute will not be construed in a manner that leads to absurd or unreasonable results, and we strive to interpret a statute in a way that advances its purposes. See *id.* Additionally, whether a court lost competency is a question of law that this court reviews *de novo*. See *Village of Trempealeau v. Mikrut*, 2004 WI 79, ¶7, 273 Wis. 2d 76, 681 N.W.2d 190.

¶11 Relying on *Hill v. D.C.*, 2014 WI App 99, 357 Wis. 2d 463, 855 N.W.2d 880, G.D. argues that the circuit court lost competency because the matter was “adjourned” three times without a written stipulation. In *Hill*, the circuit court twice adjourned an injunction hearing after finding that the respondent had not been served with a copy of the temporary restraining order. *Id.*, ¶¶3-4. On appeal, the respondent argued that the circuit court lost competency by adjourning the matter for a second time. *Id.*, ¶1. We agreed, see *id.* ¶8, given that WIS. STAT. § 813.125(3)(c) explicitly provides a temporary restraining order can only be “extended *once* for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order.” (Emphasis added.) We concluded that “[t]o permit the circuit court to extend the temporary restraining

order twice would be to ignore the statute's plain words." See *Hill*, 357 Wis. 2d 463, ¶8.

¶12 The circumstances presented in *Hill* are easily distinguished from those presented here. Unlike the respondent in that case, G.D. was properly served and appeared at the hearing, which began within fourteen days of the issuance of the temporary restraining order. See WIS. STAT. § 813.122(4)(c). G.D. failed to note in his cursory statement of facts that testimony was taken at the injunction hearing on October 20, 2016, and the circuit court continued the hearing due to the lateness of the morning. The circuit court heard additional testimony on November 23, 2016, and February 2, 2017, until it again ran out of time. On March 21, 2017, G.D. objected to the telephonic testimony by one of L.D.'s witnesses; as a result, the circuit court continued the matter to another day. There is no indication in the record that the parties objected to the continuances.

¶13 The language of WIS. STAT. § 813.122(4)(c) does not require that the hearing on issuance of an injunction *conclude* within fourteen days after the temporary restraining order is issued. See *Gasper*, 249 Wis. 2d 106, ¶8 (explaining that "[t]he first step in construing a statute is to look to the language of the statute itself and attempt to interpret it based on 'the plain meaning of its terms'") (citation omitted). L.H. argues, and G.D. does not refute, that such a requirement would be impractical for circuit courts given their high volume of cases. See *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) (holding that failure to refute an argument constitutes a concession); see also WIS. STAT. § 753.22 ("If a matter appointed to be heard at a specified time is not heard at the time appointed, it stands continued and may be heard at any time, unless the court orders otherwise."). We hold that the circuit court complied with the statute when it began the injunction hearing in

this matter within the fourteen-day period of time specified in § 813.122(4)(c), but subsequently continued the hearing to allow for additional testimony and due to court calendaring issues. *See, e.g., W.W.W. v. M.C.S.*, 185 Wis. 2d 468, 480-83, 518 N.W.2d 285 (Ct. App. 1994) (explaining that the circuit court did not lose competency where it began an injunction hearing within the statutory period but later continued it due in part to “a variety of scheduling conflicts”).

*By the Court.*—Order affirmed.

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

