

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 24, 2001

Cornelia G. Clark
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.

No. 01-0839

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

**IN THE INTEREST OF DAVID K. JR.,
A PERSON UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

LATRICE H.,

RESPONDENT-(IN T.CT.),

**DAVID K. JR., BY GUARDIAN AD LITEM,
NICHOLAS G. GRISWOLD,**

APPELLANT,

VICTORIA J.,

INTERVENOR-RESPONDENT.

¶1 APPEAL from an order of the circuit court for Milwaukee County: MARSHALL B. MURRAY, Judge. *Dismissed.*

¶2 SCHUDSON, J.¹ David K. Jr., by his guardian ad litem, appeals from the trial court order extending his CHIPS dispositional order “for one (1) year until March 30, 2001.” The guardian ad litem challenges the trial court’s decision, following a contested hearing, continuing David’s placement with Victoria J., his foster mother. The guardian ad litem argues that the trial court “failed to properly apply the evidence presented to the relevant best interest factors,” gave “undue weight to the child’s purported attachment to the foster mother and insufficient weight to the other factors,” and erred by excluding relevant evidence and limiting the testimony “to the issues of bonding and attachment.” This court concludes that the issues the guardian ad litem presents are moot. Accordingly, this appeal is dismissed.

¶3 The facts relevant to the dismissal of this appeal are undisputed. David was born on November 29, 1997. The first one-year order establishing the trial court’s CHIPS jurisdiction and placing David outside the parental home was entered on March 30, 1998.

¶4 On March 4, 1999, an extension petition was filed. Temporary extension orders continued CHIPS jurisdiction until January 26, 2000, when the trial court granted the petition, extending CHIPS jurisdiction to March 30, 2000, continuing David’s placement with Victoria J., and noting that David’s mother, Latrice H., was contesting the placement. At an extension hearing on March 31,

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e), (3) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version.

2000, the trial court extended CHIPS jurisdiction to March 30, 2001, and set a June 22, 2000 court date for David's contested-placement hearing.

¶5 The contested-placement hearing was held on June 22-23, 2000. The trial court concluded that continuing placement with Victoria J. was in David's best interests. Not until September 12, 2000, however, did the court enter orders extending the CHIPS dispositional order and David's placement with Victoria J. until March 30, 2001.

¶6 The September 12, 2000 order extending the dispositional order until March 30, 2001, states, in part: "The State shall file a termination of parental rights petition for David, Jr., within six (6) months." The parties have advised this court that, indeed, a TPR petition regarding David was filed on December 14, 2000, and is pending at this time. Both the State and Victoria J. argue, therefore, that the issues in this appeal are moot. The guardian ad litem, however, contends that this appeal is not moot because "the standard used [for] determining 'best interest' in a CHIPS proceeding is different from the standard used for determining 'best interest' in a termination of parental rights proceeding." That, however, is immaterial to the matter of mootness.

¶7 As this court recently reiterated, "An issue is moot when its resolution will have no practical effect on the underlying controversy." *State ex rel. Olson v. Litscher*, 2000 WI App 61, ¶3, 233 Wis. 2d 685, 608 N.W.2d 425. Further, as we explained: "[A] moot question is one which circumstances have rendered purely academic. Generally, moot issues will not be considered by an appellate court." *Id.* Here, clearly, the issues are moot. After all, even if this court were to address the merits of the trial court's placement decision and conclude that the guardian ad litem's challenges have merit, this court's decision

would be “purely academic”; it could not turn back the clock and effect a change in David’s placement “until March 30, 2001.”

¶8 David’s best interests, therefore, must now be measured with consideration of the fully matured circumstances present at the time of the impending hearing in the TPR proceeding. This court’s “purely academic” view of the trial court’s June 2000 analysis of David’s best interests can have “no practical effect on the underlying controversy” involving David’s placement. *See id.*

By the Court.—Appeal dismissed.²

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

² David’s mother, Latrice H., asks this court to reconsider its June 13, 2001 order concluding that she is not a party to this appeal. Because the issues in this appeal are moot, this court declines to reconsider its June 13 ruling.

