COURT OF APPEALS
DECISION
DATED AND FILED

July 24, 2013

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2012AP1413 **Cir. Ct. No. 2006PA390PJ**

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

IN RE THE PATERNITY OF SARAH L. VALLEJOS-KRAMSCHUSTER:

STATE OF WISCONSIN,

PETITIONER,

V.

STEPHANIE M. PRZYTARSKI, P/K/A STEPHANIE M. KRAMSCHUSTER,

RESPONDENT-APPELLANT,

TED B. VALLEJOS,

RESPONDENT-RESPONDENT.

APPEAL from orders of the circuit court for Waukesha County: RALPH M. RAMIREZ and LEE S. DREYFUS, JR., Judges. *Affirmed*.

Before Brown, C.J., Neubauer, P.J., and Reilly, J.

¶1 PER CURIAM. This appeal continues an acrimonious, much-litigated dispute between Stephanie M. Przytarski, p/k/a Stephanie M. Kramschuster, and Ted B. Vallejos involving their nonmarital daughter, Sarah V.-K. Przytarski appeals pro se from an order finding her in contempt for violating orders regarding Vallejos' placement, facilitating Skype communication, and joint decision making, and from an order resolving, among other things, her responsibility for outstanding guardian ad litem (GAL) and psychologist bills. Przytarski's issues spring from her misunderstanding of the law. We affirm.

¶2 Przytarski first contends that the circuit court failed to conduct a proper review of GAL Attorney Laura Schwefel's performance at the November 11, 2011 status hearing. To the contrary, the circuit court addressed Przytarski's concerns at length. It addressed her misconceptions about the nature and purpose of a WIS. STAT. § 767.407(4m) (2011-12)[1] status hearing; a GAL's role, duties and the privilege attached to a GAL's relationship with the "client"—the child's best interest; and the court's jurisdictional inability to mandate or monitor a GAL's participation in an appeal. We reject Przytarski's claim that the court's explanations amounted to acting as Schwefel's "advocate."

¶3 Przytarski next asserts that the circuit court was without authority to reappoint Schwefel as GAL because it did so "without the written request mandated [by] WIS. STAT. § 767.407(5)." We disagree.

[1] All references to the Wisconsin Statutes are to the 2011-12 version unless noted.

¶4 A request must be in writing if the GAL, a party or the person for whom the appointment is made asks the court to extend or terminate the appointment or reappointment. *See* ***id.*** Here, Schwefel's reappointment came at the instance of the court. At a hearing spanning April 24 and May 4, 2012, the court continued Schwefel's appointment to the extent necessary for participating in the pending appeals, but discharged her in terms of engaging in further advocacy, "unless reappointed by the Court." After finding Przytarski in contempt a week later, the court reappointed Schwefel indefinitely. This was proper. *See* ***id.*** ("The court may extend that appointment, or reappoint a guardian ad litem appointed under this section … but … shall specifically state the scope of the responsibilities of the guardian ad litem during the period of that extension or reappointment."); *see also* WIS. STAT. § 767.407(1)(a) ("The court shall appoint a guardian ad litem for a minor child in any action affecting the family if … [t]he court has reason for special concern as to the welfare of a minor child.").

¶5 Next, Przytarski contends the circuit court wrongly modified the physical placement order at the November 22, 2011 hearing. She asserts that the court failed to consider the WIS. STAT. § 767.451(1)(b) factors, erroneously acted on a "motion" of Vallejos' without his having paid a WIS. STAT. § 814.61(7)(b) filing fee, and "ordered that placement transfers occur at the Waukesha County Sheriff's office." None of the arguments persuade.

¶6 The order in place at the time of the hearing allowed Vallejos, who lives in New Jersey, three days a month with Sarah. The court noted that its intent always had been to equitably divide winter holiday placement and, emphasizing its desire to fashion a reasonable and mutually acceptable plan, ordered the parties and the GAL to submit their holiday placement proposals to the court. Fixing the

time Vallejos could spend with his daughter over the winter holidays does not constitute a modification of the placement order.

¶7 As to the "motion" about which Przytarski complains, Vallejos' counsel simply indicated that, despite an order being in place, "issues" remained with the Thanksgiving holiday visit. Przytarski asserts that Vallejos' failure to pay a filing fee for that "motion" left the court without authority to act on it. The claim that this was a motion is absurd. Even so, Przytarski cites no authority for the proposition that an unpaid fee creates a jurisdictional defect. This court does not address undeveloped and unsupported arguments. ***Techworks, LLC v. Wille***, 2009 WI App 101, ¶27, 318 Wis. 2d 488, 770 N.W.2d 727.

¶8 Przytarski's statement regarding the transfer location is similarly unavailing. It also is a bit disingenuous. The circuit court encouraged the parties to consider alternative safe sites but noted that, if they could not agree on an alternate, the transfer site would continue to be the sheriff's department.

¶9 Przytarski next contends that the circuit court "incorrect[ly] interpret[ed]" WIS. STAT. § 767.407(4) and thus erred when it "ruled" that the GAL represents what she *believes* to be in the child's best interest rather than what actually *is* in Sarah's best interest. It is Przytarski who is incorrect.

¶10 The circuit court explained—quite patiently, it seems to us—that, just as Przytarski and Vallejos presumably each believe they have Sarah's best interests at heart, the other, and the court, may disagree. Similarly, while the GAL is charged with being an advocate for the child's best interest, *see* WIS. STAT. § 767.407(4), its position ultimately may not square with what the court determines actually is in the best interest of the child. *Cf.* ***Paige K.B. by Peterson v. Molepske***, 219 Wis. 2d 418, 434, 580 N.W.2d 289 (1998) (the court is not

bound by the GAL's recommendation and even may modify or reject it). Thus, the GAL only advocates for and makes recommendations based on what he or she believes is in the best interest of the child. The court considers the GAL's input along with myriad other factors and determines what actually is in the best interest of the child. *See* WIS. STAT. § 767.41(5)(am).

¶11 Next, Przytarski demands reversal of various orders that were "not signed by a judge with jurisdiction." This argument has no merit. "[I]n Wisconsin, 'no circuit court is without subject matter jurisdiction to entertain actions of any nature whatsoever.'" ***Village of Trempealeau v. Mikrut***, 2004 WI 79, ¶8, 273 Wis. 2d 76, 681 N.W.2d 190 (citation omitted). We conclude that what Przytarski really objects to is Judges Ramirez' and Dreyfus' competency to act.

¶12 Competency is "the power of a court to exercise its subject matter jurisdiction." ***Kohler Co. v. Wixen***, 204 Wis. 2d 327, 336, 555 N.W.2d 640 (Ct. App. 1996). Here, Przytarski complains that the "wrong" judge signed the orders when her request for judicial substitution was denied as untimely; when a similar request was granted on reconsideration; and when the judge who presided over a matter signed the order after, or before, an official judicial rotation. She is mistaken on all counts. The District Court Administrator explained that when judges rotate, the incoming judge takes new issues brought into the case and the outgoing one completes those still outstanding. Even if she were correct, lack of competency does not result in a void judgment. *See* ***Mikrut***, 273 Wis. 2d 76, ¶34.

¶13 Przytarski next contends the circuit court erred in hearing Vallejos' WIS. STAT. ch. 785 motion for contempt while an appeal was pending on WIS. STAT. ch. 767 orders. Despite a pending appeal, a circuit court may enforce orders

in WIS. STAT. ch. 767 cases. WIS. STAT. § 808.075(4)(d). Such orders specifically include those addressing placement. Sec. § 808.075(4)(d)1. Further, enforcement of placement orders contemplates a motion for sanctions under ch. 785. *See* WIS. STAT. §767.471(3)(e). The court had authority to exercise its jurisdiction over Przytarski and to enforce its previous orders.[2]

¶14 The order resulting from the April 24 and May 4, 2012 hearings recites a finding that Przytarski still had not paid psychologist Dr. Itzhak Matusiak the $2,747.80 she had been ordered to pay on multiple occasions and an order that she pay the full amount by June 1, 2012. Przytarski claims the court "lacked authority" to order her to pay that amount because neither hearing transcript "contains any evidence" to support a finding that she owes it. She is wrong.

¶15 The record could not be clearer. A full thirteen pages of the April 24 transcript are dedicated to a discussion of the $2,747.80 Przytarski still owed Dr. Matusiak. The court also read into the record part of a letter from Dr. Matusiak confirming the outstanding amount and stating his awareness that Przytarski was under a court order to satisfy it. The court expressly found a balance due of $2,747.80 and then ordered: "We'll make it date specific. We'll give you until June 1st in which to pay that …. The balance of $2,747.80 is to be due and payable by June 1st." Przytarski's claim is especially baseless because the proposed order she herself submitted to the court after the April 24 hearing

[2] The fact that Przytarski was appealing orders from which she was found in contempt does not change our analysis. Even if a court order later proves to be clearly erroneous or improvidently granted, until it is set aside, a party is not relieved of the obligation to obey it. *See* ***Getka v. Lader***, 71 Wis. 2d 237, 247, 238 N.W.2d 87 (1976).

states in part: "THE COURT ORDERS: … 5. Przytarski is to pay Dr. Matusiak $2,747.80 by June 1, 2012."

¶16 Przytarski's last issue also is meritless. She claims that, as the November 22, 2011 hearing was a status, not an evidentiary, hearing, the entire findings section of the resulting order "is invalid and must be reversed." She also asserts that the order portion contains inaccuracies, which she does not identify, but, since correcting them would waste judicial resources, the entire order should be reversed. Przytarski cites no legal authority for these claims and this court does not have a duty to develop her arguments for her. *See* ***State v. Pettit***, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992).

By the Court.—Orders affirmed.

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