



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT IV

July 16, 2026

To:

Hon. Gloria L. Doyle
Circuit Court Judge
Electronic Notice

Gabriel Andres Pollak
Electronic Notice

Nicole Schroeder
Register in Probate
La Crosse County Courthouse
Electronic Notice

Stephen D. Woodward
Electronic Notice

Kara M. Burgos
Electronic Notice

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

2026AP42-FT

In the matter of the guardianship and protective placement of
B.A.H.: La Crosse County v. B.A.H. (L.C. # 2025GN48)

Before Graham, P.J., Kloppenburg, and Nashold, 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).

B.A.H., by counsel, appeals orders for guardianship and protective placement. The sole issue on appeal is whether the circuit court erroneously exercised its discretion when it allowed the examining psychologist to testify by telephone at the guardianship and protective placement hearing. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21 (2023-24).¹ We summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

La Crosse County filed petitions for permanent guardianship and protective placement of B.A.H. Dr. James Black, a psychologist, filed a report with the circuit court based on his evaluation of B.A.H. The report contained Dr. Black's recommendations for guardianship and protective placement of B.A.H. The final page of the report states that "[Dr. Black] will be available for phone testimony at the time of the hearing," and provides a telephone number.

At the beginning of B.A.H.'s guardianship and protective placement hearing, B.A.H.'s counsel objected to Dr. Black "appearing only by telephone" and "not by Zoom video." B.A.H.'s counsel stated, "I, frankly, don't know what the state of the law is [with] respect to that appearance, but I'll lodge an objection to him appearing not by Zoom video for the record."

The circuit court noted the objection from B.A.H.'s counsel on the record, but overruled the objection and allowed Dr. Black to testify by telephone. The court explained:

[A]t this point the availability of such professional witnesses needs to be accommodated by the legal system. We're allowing many litigants even to appear by phone for their pleas, or at least by Zoom. So at this point I believe that we have been taking telephone testimony from doctors longer than we've been using Zoom. I will today allow the testimony of Dr. Black by telephone.

On appeal, B.A.H. argues that the circuit court erroneously exercised its discretion by allowing telephonic testimony of Dr. Black over B.A.H.'s objection. See *Welytok v. Ziolkowski*, 2008 WI App 67, ¶32, 312 Wis. 2d 435, 752 N.W.2d 359 (the decision whether to allow telephonic testimony is within the discretion of the circuit court). B.A.H. asserts that, for proceedings under WIS. STAT. ch. 55, when there is not a specific statute or rule permitting telephonic testimony and the parties do not stipulate to it, the court may only admit telephonic testimony if "[t]he proponent shows good cause to the court." WIS. STAT. § 807.13(2)(a)-(c). B.A.H. argues that, when the circuit court allowed the telephonic testimony of Dr. Black, the

court failed to make any finding of good cause on the record, and failed to apply the eight factors enumerated under § 807.13(2)(c) as “[a]ppropriate considerations” in its decision. B.A.H. did not bring § 807.13(2)(c) to the circuit court’s attention when objecting to Dr. Black’s telephonic testimony or at any other time.

Despite the lack of specificity of B.A.H.’s objection to Dr. Black’s telephonic testimony, we will assume without deciding the issue that the circuit court erroneously exercised its discretion in not making any findings under WIS. STAT. § 807.13(2). We nevertheless conclude that any error in not making those findings was harmless. This court will not reverse a circuit court decision “for error as to any matter of ... procedure” unless “after an examination of the entire action or proceeding, it shall appear that the error complained of has affected the substantial rights of the party seeking to reverse or set aside the judgment.” WIS. STAT. § 805.18(2). An error affects a party’s substantial rights only if there is “a reasonable possibility that the error contributed to the outcome of the action or proceeding at issue.” *Evelyn C.R. v. Tykila S.*, 2001 WI 110, ¶28, 246 Wis. 2d 1, 629 N.W.2d 768. A reasonable possibility is one sufficient to undermine our confidence in the outcome; if the error does not undermine our confidence, the error is harmless. *Id.*

Here, there is nothing in the transcript of the guardianship and protective placement hearing to suggest that the parties or the circuit court had any difficulty hearing or understanding Dr. Black’s testimony. There is also no indication in the hearing transcript of any issue related to Dr. Black’s credibility. Furthermore, B.A.H. failed to present any competing expert testimony, or any testimony at all, against which the court would have needed to weigh Dr. Black’s credibility. The County’s second witness, a hospital nurse who had been working with B.A.H. for a few months, offered testimony that corroborated Dr. Black’s opinion that B.A.H. required

24-hour care and supervision. In addition, the court was able to observe B.A.H. personally, since she appeared in person at the hearing with her counsel. The court stated its own observations on the record, including findings that B.A.H. was “in court in a geri[atric] chair, falling asleep, having difficulty moving, and tipping from side to side within the chair.”

Based on the record before us, we determine that there is no reasonable possibility that the outcome of the proceeding would have been different had the circuit court required Dr. Black to testify via Zoom or in person. We conclude that the circuit court would have reached the same decision regardless of the format of Dr. Black’s testimony, finding by clear and convincing evidence that B.A.H. met the criteria for guardianship and protective placement. Any error on the part of the circuit court in failing to make findings under WIS. STAT. § 807.13(2) was harmless error.

Therefore,

IT IS ORDERED that the orders are summarily affirmed pursuant to WIS. STAT. RULE 809.83(2).

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

Samuel A. Christensen
Clerk of Court of Appeals