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DISTRICT IV

October 29, 2026

To:

Hon. William M. Bratcher
Circuit Court Judge
Electronic Notice

Laura M. Force
Electronic Notice

Kim Bredlau
Register in Probate
Clark County Courthouse
Electronic Notice

Ashley M. Schmitt
Electronic Notice

M. S.-H.

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

2024AP2273-NM

In the matter of the protective placement of M.S.-H:
Clark County v. M.S.-H (L.C. # 2024GN2P)

Before Blanchard, 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).

Counsel for M.S.-H. has filed a no-merit report concluding that there is no arguable basis for challenging the guardianship and protective placement orders for M.S.-H. that were issued pursuant to WIS. STAT. chs. 54 and 55 (2023-24).¹ Counsel provided M.S.-H. with a copy of the report, and both counsel and this court advised M.S.-H. of her right to file a response. No response has been filed. Having independently reviewed the no-merit report and the record as mandated by *Anders v. California*, 386 U.S. 738 (1967) and WIS. STAT. RULE 809.32, we

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

conclude that there are no issues of arguable merit to pursue. Accordingly, the orders for guardianship and protective placement are summarily affirmed. *See* WIS. STAT. RULE 809.21.

Clark County (“the County”) filed petitions for the guardianship and protective placement of M.S.-H., alleging that M.S.-H. was incompetent and in need of a guardian of her person and estate. A guardian ad litem and an attorney were appointed for M.S.-H. Dr. Stephen Dal Cerro was appointed by the circuit court to examine M.S.-H., and a report of his examination was filed with the court. On February 27, 2024, following a guardianship hearing, the court entered letters of guardianship and entered a protective placement order.²

In order to succeed on its petitions for guardianship and protective placement, the County was required to prove, by clear and convincing evidence, that M.S.-H. “is suffering from a mental disease or disability, that such condition is permanent, that she is substantially incapable of providing for her own care, and that she has a need for residential care and custody.” *Walworth County v. Therese B.*, 2003 WI App 223, ¶13, 267 Wis. 2d 310, 671 N.W.2d 377. *See also* WIS. STAT. § 55.08(1).

The circuit court held a guardianship and protective placement hearing at which it elicited testimony from Dr. Dal Cerro. Dal Cerro testified that M.S.-H. declined to meet with him, so he

² The original protective placement order has expired, but circuit court docket entries indicate that two extension orders have been entered. The most recent order extending M.S.-H.’s protective placement expires in January 2027. The original protective placement order entered on February 27, 2024, provides that M.S.-H. is prohibited from possessing any firearm and that the “prohibition shall remain in effect until lifted by the court.” In *Marathon County v. D.K.*, 2020 WI 8, ¶¶3, 25, 390 Wis. 2d 50, 937 N.W.2d 901, our supreme court held that an appeal from an expired order was not moot because of the collateral consequence of the firearms ban contained in the order, which extended beyond the order’s expiration date. The order in this case, like the order in *D.K.*, extends the firearms ban beyond expiration of the order. *See id.*, ¶25. Consistent with the holding in *D.K.*, this court concludes that the appeal is not moot as to the expired order.

based his assessment on his review of reports and interviews with collateral sources. He opined that M.S.-H. is unable to make decisions or provide care for herself as a result of a combination of mental health factors, including an unspecified psychotic disorder with paranoia and increasingly impaired cognitive functioning. Dal Cerro explained that M.S.-H.'s neurocognitive disorder impairs her basic ability to process information and respond to her environment, that her cognitive impairment is most significant for memory issues, and that dementia has exacerbated her symptoms, including paranoia or delusionality. When asked on direct examination whether M.S.-H.'s impairments affect her ability to receive and evaluate information or to make and communicate decisions related both to her physical health and safety, and to her management of property and financial affairs, Dal Cerro responded in the affirmative.

As examples of how M.S.-H.'s mental health condition manifests in her daily living, Dal Cerro explained that M.S.-H. had severe hoarding issues and had lived for five years in a motel unit that was "filled with stuff" and lacked heat for a "fairly extended period of time." M.S.-H. went to live with her son, but he was unable to manage her care. M.S.-H. was committed pursuant to WIS. STAT. ch. 51 and moved to protective placement. Dal Cerro opined that M.S.-H. needed residential care and custody that could not be met through less-restrictive community services. Dal Cerro further opined that M.S.-H.'s need for residential care was due to her cognitive impairments and unspecified psychosis, and that those conditions were likely to be permanent.

The State also elicited testimony at the guardianship and protective placement hearing from Chief Patrick Fehlman of the Owen-Withee Police Department. Fehlman testified about a welfare check he had conducted at M.S.-H.'s motel room in December 2022 after emergency services reported concerns about her welfare. He testified that the room was very cold, that bags

and miscellaneous items were piled up to the point of hindering movement, that the bathroom had no running water and had mildew, rust, and mold on the shower walls, and that the toilet contained brown, cloudy water. The County introduced Fehlman's photographs of the conditions of the motel room as exhibits. Fehlman brought M.S.-H. to a hospital that night because he was concerned for her welfare and safety. He testified that, had he not removed her from the motel that night, he was concerned that M.S.-H. "could have possibly died" from the cold temperature.

M.S.-H. testified on her own behalf. She described a difficult divorce, the loss of her home to a fire in 2014, and her subsequent years living at the motel. She denied having a mental illness or brain disorder and described herself as "very coherent." She testified that she takes medication but does not believe she needs it.

The no-merit report addresses whether there was sufficient evidence to support the circuit court's guardianship and protective placement orders. We turn to the sufficiency of the evidence supporting the guardianship. To appoint a guardian of M.S.-H.'s person, the County was required to prove by clear and convincing evidence that M.S.-H. is at least 17 years and 9 months old; that, "because of an impairment" she is not able "effectively to receive and evaluate information or to make or communicate decisions to such an extent" that she is "unable to meet the essential requirements for ... her physical health and safety"; and that her need for assistance cannot be "met effectively and less restrictively" through other available means she will accept. *See* WIS. STAT. § 54.10(3)(a). In addition, to appoint a guardian of M.S.-H.'s estate, the County was required to show that, "because of an impairment" M.S.-H. "is unable effectively to receive and evaluate information or to make or communicate decisions" related to management of her property or financial affairs. *See* § 54.10(3)(a)3.

It is undisputed that M.S.-H. satisfies the age requirement for guardianship. Dal Cerro's testimony at the hearing, as summarized above, was sufficient to establish by clear and convincing evidence that M.S.-H. suffers from impairments in the form of dementia and an unspecified psychotic disorder and that, as a result, she is unable to receive and evaluate information or to make and communicate decisions regarding her own care. The testimony of Dal Cerro and Chief Fehlman regarding the conditions that led to her 2022 hospitalization, together with evidence of her lack of insight into her condition and her belief that she does not need assistance or medication, supports the circuit court's findings that M.S.-H. cannot meet the essential requirements for her physical health and safety, and that her needs cannot be met through less restrictive means. In addition, there is sufficient evidence to support the order appointing a guardian of M.S.-H.'s estate, in the form of testimony from Dal Cerro that M.S.-H.'s impairments affect her ability to meet her own needs for management of her property and financial affairs. We conclude there would be no arguable merit to challenge the sufficiency of the evidence supporting the orders appointing a guardian of M.S.-H.'s person and estate.

We turn next to the sufficiency of the evidence supporting the protective placement order. The County was required to prove by clear and convincing evidence that M.S.-H. has "a primary need for residential care and custody"; that she "has been determined to be incompetent"; that, as a result of a "degenerative brain disorder, serious and persistent mental illness, or other like incapacities," she is "so totally incapable of providing for ... her own care or custody as to create a substantial risk of serious harm to ... herself or others"; and that her "disability ... is permanent or likely to be permanent." *See* WIS. STAT. §§ 55.08(1), 55.10(4)(d). The testimony of Dal Cerro demonstrated, by clear and convincing evidence, that M.S.-H. needs residential placement, that she lacks insight into her situation and continues to verbalize delusional beliefs, and that her

disability is permanent. Dal Cerro’s testimony regarding M.S.-H.’s hoarding, together with Chief Fehlman’s testimony about the cold temperature, unsanitary conditions, and lack of running water that he observed during his welfare check at M.S.-H.’s motel room, supports the finding that, as a result of her dementia and unspecified psychotic disorder, M.S.-H. is “so totally incapable of providing for ... her own care ... as to create a substantial risk of serious harm to ... herself.” *See* § 55.08(1)(c). We conclude there would be no arguable merit to challenge the sufficiency of the evidence supporting the protective placement order.

Our independent review of the record discloses no other potential issues of arguable merit. Therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Laura M. Force is relieved of further representing M.S.-H. in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals