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**DISTRICT I**

January 25, 2022

To:

Hon. Marshall B. Murray  
Circuit Court Judge  
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You are hereby notified that the Court has entered the following opinion and order:

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2020AP1040

Supportive Community Services, Inc. v. J.J. (L.C. # 2019GN180)

Before Donald, P.J., Dugan and White, 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).**

J.J. appeals an order for guardianship and an order for protective placement. Neither the respondent, Supportive Community Services, Inc. (SCS), nor J.J.'s guardian *ad litem* has filed a brief. Instead, SCS and the guardian *ad litem* have each filed a statement conceding error. Based upon our review of J.J.'s appellant's brief, the record, and the statements of SCS and the

guardian *ad litem*, we conclude at conference that this case is appropriate for summary disposition. See WIS. STAT. RULE 809.21 (2019-20).<sup>1</sup> We summarily reverse.

J.J. argues on appeal that the circuit court lost competency to proceed in this matter by failing to hold a timely hearing on the petition for guardianship of his person. Pursuant to WIS. STAT. § 54.44(1)(a), “a petition for guardianship ... shall be heard within 90 days after it is filed.” A circuit court loses competency to proceed on a guardianship petition when the circuit court does not hold a hearing on the petition within the ninety-day deadline, and parties cannot waive challenges to the circuit court’s competency that are based on the statutory limitation period. See *Tina B. v. Richard H.*, 2014 WI App 123, ¶¶20-22, 359 Wis. 2d 204, 857 N.W.2d 432. Here, the petition was filed on April 14, 2018, and the circuit court held a hearing 101 days later, on July 24, 2018. J.J. therefore asserts that the circuit court lacked competency to act on the petition and that this court must vacate the guardianship order. See *id.*, ¶32. Further, under the authority that he cites, this court must also vacate the related order for protective placement. See *Lipp v. Outagamie Cnty. DHHS*, No. 2011AP152, unpublished slip op., ¶16 (WI App June 5, 2012).<sup>2</sup>

SCS and the guardian *ad litem* both agree with J.J. that the circuit court’s failure to conduct a hearing on the guardianship petition within ninety days of its filing date was fatal to

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

<sup>2</sup> J.J.’s citation to *Lipp v. Outagamie County DHHS*, No. 2011AP152, unpublished slip op. (WI App June 5, 2012), is permitted pursuant to WIS. STAT. RULE 809.23(3)(b) (authorizing citation of certain unpublished opinions for their persuasive value). We have previously recognized *Lipp*’s persuasive value. See *Tina B. v. Richard H.*, 2014 WI App 123, ¶27, 359 Wis. 2d 204, 857 N.W.2d 432.

the circuit court's competency to proceed in the matter. SCS explicitly advises that any additional response to J.J.'s claims for relief would lack merit.

We accept the concessions from SCS and the guardian *ad litem*. See ***Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.***, 90 Wis.2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979). Accordingly, we reverse the orders of the circuit court.

IT IS ORDERED that the guardianship order and the protective placement order are summarily reversed. See WIS. STAT. RULE 809.21.

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*