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**DISTRICT I**

October 22, 2024

To:

Hon. Gwendolyn G. Connolly  
Circuit Court Judge  
Electronic Notice

Brian Keenan  
Electronic Notice

Anna Hodges  
Clerk of Circuit Court  
Milwaukee County Safety Building  
Electronic Notice

Angela D. Wren  
Electronic Notice

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

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2023AP344

Angela D. Wren v. Department of Children and Families  
(L.C. # 2022CV5006)

Before White, C.J., Donald, P.J., and Geenen, J.

**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).**

Angela D. Wren, *pro se*, appeals a circuit court order affirming the decision to revoke her child care license. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>1</sup>  
We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

### ***Background***

The following facts are taken from the findings of the Administrative Law Judge (ALJ). Wren was a licensed family child care provider doing business as Angela's Childcare Development Center, starting in 2013. On August 28, 2013, the Department of Children and Families (DCF) attempted a site visit but was unable to gain access to the facility. Approximately three months later, DCF issued a warning letter to Wren citing six child care rule violations at her facility.

From January 3, 2014, through November 13, 2017, DCF attempted seven separate site visits but each time was unable to gain access. On November 21, 2017, DCF issued another warning letter because it was unable to gain access to her facility in October and November 2017.

Again, on January 25, 2019, DCF attempted a site visit but was unable to gain access. Just over a year later, on March 2, 2020, DCF issued a "Notice of Order, Sanctions and an Imposed Plan of Correction" to Wren, citing seven child care rule violations at her facility.

In June and July of 2021, DCF attempted two site visits but was unable to gain access. On July 28, 2021, DCF issued a warning letter based on the attempted prior visits. The letter informed Wren that she had seven days to provide DCF with a written eight-week schedule identifying the dates and times children would be in her care. Wren did not provide the requested schedule.

On September 23, 2021, DCF attempted a site visit but was unable to gain access. Six days later, DCF issued a "Notice of Order, Sanctions and an Imposed Plan of Correction" to

Wren. The letter informed Wren that she was to provide DCF with a written eight-week schedule identifying the dates and times children would be in her care. Again, Wren did not provide the requested schedule.

On March 17, 2022, DCF again attempted a site visit but was unable to gain access. The following month, DCF notified Wren that it intended to revoke her child care license.

Wren sought administrative review of DCF's revocation decision. An ALJ with the Division of Hearings and Appeals (DHA) held a hearing during which three witnesses for DCF and Wren testified. In the written decision that followed, the ALJ concluded that DCF demonstrated by a preponderance of the evidence that Wren violated licensing rules and that DCF's revocation of Wren's child care license did not constitute an erroneous exercise of discretion.

In arriving at these conclusions, the ALJ noted that under WIS. STAT. § 48.73 and the administrative code, DCF "is allowed unrestricted access to [Wren]'s facility during licensed hours of operations for the purpose of determining compliance with licensing rules and regulations." The ALJ concluded that DCF had not been able to gain access to Wren's facility and was not able to verify compliance with the order issued on March 2, 2020, or "with any other licensing standards meant to protect children."

The ALJ rejected Wren's argument that a "no access" visit should not be counted against her because she was on vacation, "not[ing] that there is no evidence to support any report of vacation prior to the visit." Wren additionally argued that DCF did not provide her with information she requested about "reasonable accommodations" and did not account for her mental health issues following her involvement in a car accident. The ALJ made clear that no

one disputed that Wren was involved in a serious car accident and faced challenges because of it, but explained that DCF is not a legal advisor. The ALJ further explained, DCF is responsible for ensuring compliance with licensing rules for the health, safety, and welfare of the children for whom Wren provided care. The ALJ determined that the evidence showed a pattern of rule violations.

Wren sought review in the circuit court, which affirmed. This appeal follows.

### *Discussion*

We begin our analysis with a brief overview of the statutes and regulations at issue. Child care licensees must give DCF “unrestricted access to the premises” used for their child care facilities. WIS. STAT. § 48.73. Per DCF’s rules, it “may visit and inspect any family child care center at any time during licensed hours.” WIS. ADMIN. CODE § DCF 250.12(2) (July 2024). Further, DCF representatives “shall have unrestricted access to the premises identified in the license, including access to children in care, staff and child records, and any other materials or individuals with information on the family child care center’s compliance with this chapter.” *Id.*

DCF has the discretionary power to revoke a family child care license under certain circumstances. *See* WIS. STAT. § 48.715(4)(b) (providing that DCF *may* revoke a license if the licensee “has committed a substantial violation, as determined by [DCF], of a rule promulgated under” WIS. STAT. § 48.67<sup>2</sup>, among other reasons); *see also* WIS. ADMIN. CODE § DCF

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<sup>2</sup> WISCONSIN STAT. § 48.67 provides that DCF “shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments.” DCF promulgated WIS. ADMIN. CODE ch. DCF 250 (July 2024) as the rules governing family child care centers. *See* WIS. ADMIN. CODE § DCF 250.01 (July 2024).

250.11(8)(a)7. (providing that DCF may revoke a license if the licensee has “[v]iolated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter”). Following revocation, there is a right to an administrative hearing conducted by DHA. WIS. STAT. § 48.72.

At the administrative hearing, DCF must prove by a preponderance of the evidence that the petitioner violated provisions of chapter 48 of the Wisconsin Statutes or chapter 250 of the Administrative Code. *See* WIS. ADMIN. CODE § HA 1.17(2) (June 2023). If proven, the question that follows is whether DCF erroneously exercised its discretion in revoking the petitioner’s license. The decision of the ALJ is the final decision of DCF. *See* WIS. STAT. § 227.46(3)(a); *see also* WIS. ADMIN. CODE § HA 1.17(4). From there, the next step is judicial review under chapter 227 of the Wisconsin Statutes.

“When an appeal is taken from a circuit court order reviewing an agency decision, we review the decision of the agency, not the circuit court.” *Lake Beulah Mgmt. Dist. v. DNR*, 2011 WI 54, ¶25, 335 Wis. 2d 47, 799 N.W.2d 73 (citation omitted). The findings of fact made by the ALJ are reviewed using the “substantial evidence” standard, under which the findings must be upheld “if they are supported by ‘credible and substantial evidence.’” *See Brown v. DCF*, 2012 WI App 61, ¶11, 341 Wis. 2d 449, 819 N.W.2d 827 (citation omitted; one set of quotation marks omitted). We set aside an agency’s findings of fact “only when a reasonable trier of fact could not have reached them from all the evidence before it, including the available inferences from that evidence.” *See id.* (citation omitted).

We conclude that there is substantial evidence that Wren repeatedly violated WIS. STAT. § 48.73 and WIS. ADMIN. CODE § DCF 250.12(2), which justifies revocation. After listening to

the testimony offered by a DCF licensing certification specialist, a DCF program supervisor, a regional licensing manager, and by Wren herself, the ALJ found DCF established numerous violations of the unrestricted access rule over many years, issued three warning letters to Wren, and entered two orders noting violations before initiating revocation proceedings. While Wren offers a number of reasons and excuses for events that transpired, substantial and credible evidence nevertheless remained to support the ALJ's findings.

In its response brief, DCF explains why Wren's remaining arguments—as best they can be discerned—are unavailing. This court agrees with DCF's analysis. In any event, by failing to file a reply brief refuting DCF's position, Wren conceded DCF's position is correct. *See Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis.2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) (providing that unrefuted arguments are deemed admitted). Further discussion of Wren's remaining arguments is not warranted.

IT IS ORDERED that the circuit court order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*