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DISTRICT IV

December 27, 2024

To:

Hon. Guy D. Dutcher
Circuit Court Judge
Electronic Notice

Katrina Rasmussen
Clerk of Circuit Court
Waushara County Courthouse
Electronic Notice

Karen Lueschow
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Ruth A. Zouski
Electronic Notice

Darwin Donald Airola III
Electronic Notice

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

2023AP1299

In re the marriage of:
Rejani Raveendran v. Darwin Donald Airola, III
(L.C. # 2020FA41)

Before Graham, Nashold, and Taylor, 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).

This is an appeal of orders that were issued in this Waushara County Circuit Court divorce proceeding. On appeal, Darwin Airola, pro se, challenges a Waushara County order that denied his motion to vacate orders that were issued by the Portage County Circuit Court in cases concerning legal placement and physical custody of the parties' minor children. Airola also challenges the subsequent Waushara County order that denied his motion for reconsideration and also denied his request for the court to appoint a specific supervisor for Airola's visits with his children. Based on 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).¹ We summarily affirm.

In the course of this divorce proceeding, the Waushara County court issued a November 2020 order that determined legal custody and physical placement of the parties' three children. In January 2021, Portage County Health and Human Services initiated child protective services actions in Portage County against both parties. The Portage County court found that the children were in need of protection or services (CHIPS). In September 2022, the Portage County court entered case closure orders in the CHIPS cases that modified custody and placement.

In April 2023, Airola filed a motion asking the Waushara County court, in this divorce action, to vacate all of the Portage County court's orders in the CHIPS cases. Airola argued that the Portage County court had no jurisdiction to enter orders as to the children's custody and placement because the Waushara County court had jurisdiction over the children's custody and placement in the divorce action. Airola also argued that the Portage County court decisions were wrong on the merits. Airola asked the Waushara County court to vacate all of the orders issued by the Portage County court and to restore the custody and placement set forth in the November 2020 Waushara County court order, which would have allowed Airola to have unsupervised visits with his children.

The Waushara County court denied the motion to vacate the Portage County court orders. In so doing, it explained that the Portage County court had jurisdiction to enter the case closure orders and that there was no basis for the Waushara County court to vacate them. The court

¹ All references to the Wisconsin Statutes are to the 2021-22 version.

ordered that the requirement for supervised visits under the case closure orders would continue, and that Airola was required to obtain approval from opposing counsel or the court for a professional who would supervise the visits.

Airola asked the Waushara County court to reconsider its decision, and also requested approval for an individual named Pam Wellbrock to supervise his visits with his children. At a hearing, opposing counsel objected to Airola's selection of Wellbrock to supervise the visits. Counsel asserted that Wellbrock was associated with Airola's church and had recently provided therapy sessions to Airola. The court determined that Wellbrock was not an appropriate person to supervise Airola's visits because she was a member of his support system through his church and had provided him therapy, and therefore was not a "neutral" party. The court issued an order denying reconsideration and directing that Wellbrock was not approved to supervise Airola's visits with his children.

At the outset, a significant portion of Airola's appellate briefing is devoted to challenging the decisions that the Portage County court made in the CHIPS proceedings. However, the Portage County CHIPS orders are not within the scope of this appeal. Rather, this appeal is from the Waushara County court's orders, in the underlying divorce case that denied Airola's motion to vacate the Portage County court orders, denied reconsideration of that decision, and denied the request to approve Wellbrock to supervise visits.² Accordingly, this opinion addresses only

² Airola also argues that the circuit court erred by denying his objections to the appointment of the guardian ad litem (GAL) in this case. However, Airola cites orders by the circuit court that were entered after the notice of appeal was filed. Because Airola does not identify any decision as to the appointment of the GAL that is within the scope of this appeal, we do not address his arguments related to the GAL.

Airola's challenge to the Waushara County court's decisions that denied Airola's motion to vacate the Portage County court orders and his request to have Wellbrock supervise his visits.

Airola argues that, under *State ex rel. Rickli v. Circuit Court for Dane County*, 21 Wis. 2d 89, 123 N.W.2d 908 (1963), a CHIPS court may not supersede the rulings of a divorce court as to the custody and placement of children. However, Airola's argument does not accurately describe the holding of *Rickli*. Rather, *Rickli* recognized that a divorce court and a CHIPS court each have concurrent jurisdiction over custody and placement, “[b]ut the jurisdiction of the [CHIPS] court shall be paramount.” *Id.* at 94-95 (quoted source omitted); *see also* WIS. STAT. § 48.15 (“[T]he jurisdiction of the court assigned to exercise jurisdiction under this chapter … is paramount in all cases involving children alleged to come within the provisions of [WIS. STAT. §] 48.13 [CHIPS]....”). Thus, *Rickli* actually undermines Airola's argument. Moreover, this court has already affirmed, in a prior appeal, that the Portage County court had jurisdiction to enter the case closure orders in the CHIPS matters that determined custody and placement of the children.

Airola also argues that the circuit court in this case erred by denying Airola access to his children, which Airola believes is based on the court's negative views of Airola. More specifically, Airola argues that the court erred by denying his request to have Wellbrock approved to supervise his visits with his children. He contends that Wellbrock is not a member of his church or his therapist, and that the court is unreasonably requiring Airola to find someone to supervise the visits who will prevent Airola from sharing his “worldview” with his children. However, the court patiently and repeatedly explained that Airola was required to have his visits supervised by a “neutral individual,” and it is undisputed that Wellbrock had a prior connection to both Airola and his children. Airola has not demonstrated that the court erroneously exercised

its discretion by denying Airola's request that Wellbrock supervise the visits. *See Goberville v. Goberville*, 2005 WI App 58, ¶6, 280 Wis. 2d 405, 694 N.W.2d 503 (a circuit court has wide discretion in decisions as to child placement).

It also appears that Airola is arguing that the Waushara County court should have modified custody and placement in Airola's favor. However, to obtain an order modifying placement and custody, a party must establish a substantial change in circumstances since the prior order as to placement and custody and also demonstrate that the requested modification is in the children's best interest. *See* WIS. STAT. § 767.451(1)(b)1. Here, Airola has not made those showings. Accordingly, he has not established that the court erred by failing to modify custody and placement.³

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals

³ To the extent that Airola makes other arguments not specifically addressed in this opinion, including claims of constitutional violations in these proceedings, we deem those arguments insufficiently developed, or insufficiently supported by legal authority and citations to the record, to warrant discussion. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992).