



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

January 9, 2025

To:

Hon. Guy D. Dutcher
Circuit Court Judge
Electronic Notice

Katrina Rasmussen
Clerk of Circuit Court
Waushara County Courthouse
Electronic Notice

Karen Lueschow
Electronic Notice

Darwin Donald Airola III
Electronic Notice

Ruth A. Zouski
380 S. Townline Rd.
Wautoma, WI 54982-6900

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

2023AP2171

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

Before Blanchard, Graham, 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 a postdisposition order that was issued in this Waushara County Circuit Court divorce proceeding. On appeal, Darwin Airola, pro se, challenges the Waushara County order that: (1) denied Airola's objection to the appointment of the guardian ad litem (GAL); (2) made Airola responsible for the GAL fees; (3) dismissed Airola's motion to approve a proposed supervisor for Airola to begin court-ordered supervised placement with his children; (4) prohibited Airola from filing further requests to begin the court-ordered supervised placement until he showed he would cooperate with the GAL and had paid the GAL fees; and (5) denied

Airola's motion to modify child support. 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. At a hearing held on July 12, 2021, the parties stipulated to child support based on income imputed to Airola at a specified rate. The court entered a child support award based on that stipulation.

Meanwhile, 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. The case closure orders granted primary physical placement to the children's mother, and ordered that Airola's placement with his children must be supervised. The matter was then returned to the Waushara County court, where the parties have engaged in extensive postjudgment litigation regarding custody, placement, and child support.

In July 2023, Airola filed a petition to begin supervised placement with his children and for approval of an individual named Randal Ambrosius to supervise the placement. At a July 17, 2023 hearing, counsel for the children's mother took the position that, before the proposed

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

supervised placement could take place, the supervisor should be given certain background information as to the CHIPS cases, and should communicate with the children's therapist and the children's mother.

The circuit court questioned whether, before it determined whether to approve Ambrosius to supervise Airola's placement with his children, a GAL should be re-appointed to evaluate the proposed supervised placement and how the supervised placement would impact the children's wellbeing. Counsel for the children's mother agreed that the appointment of a GAL would be appropriate. The court appointed Attorney Chelsea Thuecks as GAL, noting that she had been the children's GAL towards the end of the CHIPS cases in Portage County. Airola objected to Thuecks being appointed as GAL based on her connection to Portage County, asserting she would be biased. After considering the objection, the circuit court appointed Thuecks as GAL. Following the hearing, Airola filed a written objection to the appointment of Thuecks as GAL.

At an October 16, 2024 hearing, Thuecks reported that Airola was refusing to cooperate with her attempts to evaluate an appropriate supervisor for Airola's placement with his children. Airola confirmed that he would not cooperate with the GAL. Based on Airola's refusal to cooperate with the logistics of his supervised physical placement, the circuit court dismissed Airola's petition to approve Ambrosius as a supervisor and to begin supervised placement. The court also determined that Airola was solely responsible for the GAL fees that had been incurred based on Airola's petition to begin supervised placement and subsequent noncooperation with that process, and therefore ordered Airola to pay those fees. The court also ordered that Airola was not permitted to file any further motions to begin the court-ordered supervised placement with his children until he agreed to cooperate with the GAL and until he paid the GAL fees.

connected with the current proceedings he initiated. The court also noted that Airola had filed a motion to modify child support, and determined that nothing in the motion supported a modification.

The court issued an order on October 31, 2023, that: (1) denied Airola's motion objecting to Thuecks' appointment as GAL; (2) made Airola responsible for the GAL fees; (3) dismissed Airola's motion to approve Ambrosius as a supervisor and begin supervised placement with his children; (4) prohibited Airola from filing further requests to begin the court-ordered supervised placement until he showed he would cooperate with the GAL and had paid the GAL fees; and (5) denied Airola's motion to modify child support. That order is the subject of this appeal.

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 and other prior final decisions in this underlying divorce matter. However, the Portage County CHIPS orders and prior final orders in this case are not within the scope of this appeal. Rather, this appeal is from the Waushara County Circuit Court's October 31, 2023 postjudgment order related to the appointment of the GAL, payment of GAL fees, Airola's request to begin supervised placement, and modification of child support. Accordingly, this decision addresses only Airola's arguments as to those issues.

Airola argues that the circuit court erred by appointing Attorney Thuecks as the GAL because Thuecks failed to comply with the statutory duties of a GAL under WIS. STAT. § 767.407(4). Specifically, Airola asserts that Thuecks failed to advocate for his children's best interests, failed to investigate and report allegations of domestic abuse by the children's mother,

failed to meet with the children or the parents during the CHIPS proceedings, and failed to communicate the children's wishes to the court in the CHIPS cases or this case. Airola has not established that Thuecks failed to comply with the duties of a GAL. First, Airola cites portions of the record taken from the CHIPS cases to support his claims of physical abuse by the children's mother against Airola and their children. Those claims of abuse were apparently documented and addressed within the CHIPS proceedings, and Airola does not explain why Thuecks was required to report allegations that were already documented. Second, Airola argues that Thuecks should have related the children's desires to the court at the October 16, 2023 hearing. However, the subject of that hearing was the progress the GAL had made toward approving a supervisor for Airola's placement with his children and, at the hearing, it was undisputed that Airola refused to work with the GAL toward reestablishing placement. The wishes of the children were not at issue during the hearing. None of Airola's assertions, or the portions of the record he cites, establish that the circuit court erroneously exercised its discretion by appointing Thuecks as the GAL. *See Tamara L.P. v. County of Dane*, 177 Wis. 2d 770, 774-75, 785-86, 503 N.W.2d 333 (Ct. App. 1993) (we review a circuit court decision regarding the appointment of a GAL for an erroneous exercise of discretion).

Airola argues that he should not be expected to pay for the GAL's services. However, Airola fails to develop that argument with citations to the record or legal authority.² Rather, the essence of Airola's argument is that he should not have to pay for a GAL that he did not wish to

² Airola also asserts that the GAL fees are incorrect. However, the order appealed did not address any challenge to the GAL fee. In fact, to support this argument, Airola cites his motion challenging the GAL fee amount that was filed after the notice of appeal was filed. Accordingly, Airola's challenge to the amount of the GAL fees is outside the scope of this appeal.

have appointed and that he does not believe has properly performed her duties. Those assertions do not establish that the circuit court erroneously exercised its discretion by making Airola responsible for the GAL fees connected with these proceedings, which Airola initiated and then failed to cooperate with. *See Zhang v. Yu*, 2001 WI App 267, ¶12, 248 Wis. 2d 913, 637 N.W.2d 754 (the circuit court's decision to award GAL fees is a matter within the court's discretion).

Airola also argues that the circuit court erred in calculating his income for purposes of child support. However, the original child support order is not before this court in this appeal. Rather, the order appealed denied Airola's motion to modify child support. To obtain an order modifying child support, a party must establish a substantial change in circumstances since the prior child support order. *See* WIS. STAT. § 767.451(1)(b)1. Here, Airola has not made that showing. Accordingly, he has not established that the circuit court erred by denying his motion to modify child support.³

Therefore,

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

³ To the extent that Airola raises other arguments not specifically addressed in this opinion, including claims that his constitutional rights have been violated, 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).

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

Samuel A. Christensen
Clerk of Court of Appeals