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DISTRICT II

June 18, 2025

To:

Hon. Frank M. Gagliardi
Circuit Court Judge
Electronic Notice

Amy Hetzner
Electronic Notice

Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
Electronic Notice

Gregory A. Colbert
Electronic Notice

Brenda J. Dahl
Electronic Notice

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

2024AP1089

Gregory A. Colbert v. Laurie L. Colbert (L.C. #2022FA893)

Before Gundrum, P.J., Neubauer, and Lazar, 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).

Laurie L. Colbert appeals from a judgment of divorce entered following a bench trial. Specifically, she challenges those portions of the judgment that: (1) awarded joint legal custody of the four marital children; (2) awarded primary placement of two of the children, referred to by the pseudonyms Gabby and Desiree, to Gregory L. Colbert;¹ and (3) reserved the issue of child support. Gregory did not file a response brief. Based upon our review of Laurie's brief and the record, we conclude at conference that this case is appropriate for summary disposition. *See*

¹ Though Gregory's name is apparently spelled Graigory, we refer to him by the spelling that appears in the notice of appeal.

WIS. STAT. RULE 809.21 (2023-24).² Based on Gregory's failure to file a responsive brief, we summarily reverse those portions of the judgment addressing custody, physical placement of Gabby and Desiree, and child support and remand the matter for further proceedings consistent with this opinion. We leave undisturbed all other portions of the judgment.

Gregory filed this action in November 2022. On March 7, 2024, the trial court held a one-day trial on the issues of custody, placement, and child support. The court awarded joint legal custody to the parties, awarded Gregory primary placement of Gabby and Desiree during the school year, and reserved child support. This appeal follows.

On appeal, Laurie contends that the trial court erred in awarding joint legal custody of the parties' marital children and primary placement of Gabby and Desiree and in reserving child support. She seeks reversal of the court's decisions on custody and placement of Gabby and Desiree and asks that we remand the case for entry of an order awarding her sole legal custody and physical placement of all of the marital children. She also seeks reversal of the child support decision and asks that we order reconsideration of child support on remand.

Gregory has not filed a brief responding to Laurie's arguments.³ *See Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 108-09, 279 N.W.2d 493 (Ct. App. 1979) (unrefuted arguments are deemed conceded). On December 3, 2024, we informed Gregory that his responsive brief was delinquent. On December 12, 2024, we warned Gregory that if he failed

² All references to the Wisconsin Statutes are to the 2023-24 version.

³ Although Gregory did file a brief, it was not accepted for filing because it did not comply with multiple requirements of WIS. STAT. RULE 809.19. In an order dated November 11, 2024, we ordered Gregory to file a new brief that complied with the requirements of RULE 809.19. He did not do so.

to file a responsive brief, we could exercise our discretion and summarily reverse the trial court if we determined that he had abandoned the appeal. *See Raz v. Brown*, 2003 WI 29, ¶18, 260 Wis. 2d 614, 660 N.W.2d 647; *see also State ex rel. Blackdeer v. Township of Levis*, 176 Wis. 2d 252, 259-60, 500 N.W.2d 339 (Ct. App. 1993) (summary reversal is appropriate sanction for respondent's violation of briefing requirements). Despite this admonition, Gregory failed to file a responsive brief.

We decline to address the merits of the appeal under these circumstances. We conclude only that Gregory has abandoned the appeal and that summary reversal of the contested portions of the judgment concerning custody, physical placement, and child support is appropriate. Accordingly, we reverse these portions of the judgment and remand the matter for further proceedings consistent with this opinion.

Therefore,

IT IS ORDERED that the judgment of the circuit court is summarily reversed with respect to the provisions addressing custody, physical placement of Gabby and Desiree, and child support and the cause is remanded for further proceedings consistent with this opinion. *See* 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