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APPENDIX CERTIFICATION

I hereby certify that the filed with this petition either as a separate document or as part of this petition, is an appendix that complies with WIS. Stat 809.62 (2)(F) and that contains (1. The decision of the Court of Appeals. (2. The facts and case law for this petition, (3 any other portions of the record for an understanding of the petition.

Steven E. Schultz

CERTIFICATE OF COMPLIANCE WITH RULE 809.19 (13)

I hereby certify that I have submitted an electronic copy of this appendix, which complies with the requirements of WIS Stat 809.19 (13) I further certify that:

This electronic appendix is identical in content to the printed form of the appendix filed as of this date. A copy of this certificate has been served with the paper copies of this appendix filed with the court and served upon all opposing parties.

Dated this 8th day of February 2021

Not required pro se

X
Steven E. Schultz

**COURT OF APPEALS
DECISION
DATED AND FILED
December 8, 2020**

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

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2019AP739
STATE OF WISCONSIN**

Cir. Ct. No. 2003PA4PJ

**IN COURT OF APPEALS
DISTRICT III**

IN RE THE PATERNITY OF K. M. S.:

**MARATHON COUNTY CHILD SUPPORT AGENCY AND
HEATHER M. GUSTAFSON,**

PETITIONERS-RESPONDENTS,

v.

STEVEN E. SCHULTZ,

RESPONDENT-APPELLANT.

**APPEAL from an order of the circuit court for Marathon County:
JILL N. FALSTAD, Judge. *Affirmed.***

Before Stark, P.J., Hruz and Seidl, JJ.

**Per curiam opinions 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).**

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¶1 PER CURIAM. Steven Schultz appeals an order denying his post-paternity action motions regarding child support. Schultz argues the circuit court erred by denying his request to invalidate an August 2007 temporary order and any child support and other obligations flowing from that order. We reject Schultz's arguments and affirm.

BACKGROUND

¶2 In March 2003, Schultz was adjudicated as the father of Heather Gustafson's then four-and-one-half-year-old child. Schultz and Gustafson were granted joint legal custody, but Gustafson had primary physical placement with reasonable periods of placement available to Schultz upon notice. Schultz was ordered to pay \$175 per month in child support. In June 2003, the parties stipulated to a modified placement schedule that granted Schultz alternating weeks with the child and included grandparent visitation and placement. The stipulation specified that it did not affect child support.

¶3 Schultz subsequently moved to revise child support. Based on the parties' shared placement schedule, the circuit court reduced Schultz's child support obligation to zero as of October 1, 2005. Schultz, however, remained responsible for any support arrears.

¶4 In April 2007, Gustafson sought a change in custody and physical placement, averring that Schultz was in jail and had been "in and out of jail for the last few years." Gustafson added that Schultz had not held a job in the past eight years and could not "physically/financially" take care of their daughter. Gustafson thus sought full custody, with placement for Schultz every other weekend upon his release from jail. The parties were ordered to undergo mediation and, in the interim, Gustafson sought "temporary full custody."

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¶5 After an August 2, 2007 hearing at which both parties appeared in person, a court commissioner issued what was identified as a “Temporary Order from 8/2/07 Hearing,” under which Gustafson was given primary physical placement with Schultz having placement every other weekend and every Tuesday and Thursday from 5:00 p.m. until 8:45 p.m. Because Schultz was unemployed, the court commissioner imputed to him the minimum wage of \$6.50 per hour or \$1,127 per month of gross income. Based on that imputed income, Schultz was ordered to pay \$192 per month in child support. Schultz was also ordered to pay \$50 per month toward arrears. Both the child support and arrears payments became effective as of August 1, 2007.

¶6 Attempts at mediation reached an impasse when Schultz failed to comply with the mediation order by not viewing a required video. On February 29, 2008, the court commissioner issued a “Notice of Intent to Dismiss Custody/Placement Issue,” in which Schultz was advised that, the issues he raised regarding custody and physical placement were dismissed based on his failure to attend an impasse review hearing. That notice was returned as undeliverable because Schultz failed to keep the circuit court advised of his current address.

¶7 In May 2008, the Marathon County Child Support Agency (“the Agency”) sought to enforce the August 2007 child support order by filing an order to show cause. When Schultz failed to appear for the scheduled hearing, the circuit court issued a bench warrant for his arrest. The warrant was later quashed and the court ultimately dismissed the contempt action in February 2009 because Schultz was scheduled to be incarcerated until June of that year. However, the court acknowledged the existing order for \$192 per month in current child support and \$50 per month for arrears.

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¶8 In March 2009, Schultz again petitioned to modify child support, arguing that his financial situation had drastically changed as a result of his incarceration. In June 2009, presumably following Schultz's release from incarceration, Gustafson moved to modify placement, asserting that overnight visits with Schultz should stop because of his "unstable lifestyle."

¶9 At a hearing on Schultz's petition, the circuit court informed the parties that because mediation had previously failed and the child's placement was at issue, it was required to appoint a guardian ad litem ("GAL") to represent the child's best interests. The court instructed the parties that unless they stipulated to the custody and placement issues, they were liable for the GAL fees. When Gustafson failed to make payment arrangements for her share of the GAL fees, she was warned that her claims regarding custody and placement would be dismissed if payment arrangements were not made within twenty days. From the record, it does not appear Gustafson made such arrangements. In August 2011, Schultz stipulated to increasing his child support from \$192 to \$251 per month. Schultz's July 2012 motion to reduce child support was denied.

¶10 Throughout this time, the Agency continued to enforce the child support orders via remedial contempt. Between July 2010 and March 2014, Schultz signed eleven orders acknowledging his obligation to pay child support, four of which specifically set forth the \$192 per month due under the August 2007 temporary order.

¶11 The child turned eighteen in September 2016, thus ending Schultz's obligation to pay new child support. In August 2016, Schultz asked the circuit court to forgive all child support, arrears, and interest, arguing he had equal custody of the child since 2009 and the Agency had been improperly collecting

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child support imposed by a “temporary order that was dismissed.” It is unclear from the record before us whether there was a ruling on that request before Schultz moved the court for an order “reconciling the child support record,” again claiming the August 2007 temporary order had been vacated or otherwise rendered invalid. Schultz’s motions were denied, and this appeal follows.¹

DISCUSSION

¶12 As an initial matter, Schultz claims the underlying action was “procedurally flawed from the beginning,” asserting that the record does not reflect that he was timely served with Gustafson’s filings in the circuit court. Schultz, however, fails to adequately develop that argument. This court need not consider arguments that are unsupported by adequate factual and legal citations or are otherwise undeveloped. See *State v. Pettit*, 171 Wis. 2d 627, 646–47, 492 N.W.2d 633 (Ct. App. 1992). In any event, as the Agency points out (and which Schultz does not dispute), Schultz did not raise that procedural challenge in the circuit court and, ultimately, he consented to the court’s jurisdiction. See *Shadley v. Lloyds of London*, 2009 WI App 165, ¶25, 322 Wis. 2d 189, 776 N.W.2d 838 (holding that issues not presented to the circuit court will not be considered for the first time on appeal). For those reasons, we reject that challenge by Schultz.

¹ The circuit court’s written order states: “For the reasons set forth by the court on the record, the court denies all of [Schultz]’s motions.” We note that the February 18, 2019 transcript of the court’s oral ruling is not part of the record on appeal. As the appellant, Schultz was responsible for ensuring that all relevant transcripts are in the record. See WIS. STAT. RULE 809.11(4). However, the transcript is cited extensively in the Agency’s brief and is included in the appendices to both parties’ briefs. Because the contents of the transcript do not appear to be disputed, we accept the contents of the transcript as presented by the parties.

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¶13 Schultz also claims the temporary order is invalid both because the court commissioner did not overtly find that there was a substantial change in circumstances and because there was no GAL appointed at the time the order was granted. Schultz again fails to dispute the Agency's claim that these arguments were not raised in the circuit court. Generally, we do not consider issues raised for the first time on appeal. *Id.* We therefore decline to consider those challenges to the temporary order.

¶14 Next, Schultz argues that the circuit court erred by denying his request to invalidate the August 2007 temporary order and any child support obligations flowing therefrom. Child support determinations rest within the circuit court's sound discretion and will not be reversed absent an erroneous exercise of that discretion. *See Pergolski v. Pergolski*, 143 Wis. 2d 166, 173-74, 420 N.W.2d 414 (Ct. App. 1988). It is well established that "[w]hen reviewing a circuit court's exercise of discretion, we affirm if the circuit court applied the proper law to the relevant facts of record and used a rational process to arrive at a reasonable result." *Ambrose v. Continental Ins. Co.*, 208 Wis. 2d 346, 350, 560 N.W.2d 309 (Ct. App. 1997).

¶15 Here, Schultz fails to acknowledge this court's standard of review or otherwise explain how he believes the circuit court erroneously exercised its discretion by denying his request for relief. Rather, Schultz asserts that the February 29, 2008 "Notice of Intent to Dismiss Custody/Placement Issue" should be interpreted as also voiding the terms of the temporary order. We are not persuaded. As the circuit court noted, the "Notice of Intent" informed Schultz in "plain language" that the issues of custody and physical placement raised by him were dismissed based on his failure to comply with the mediation order. The

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notice did not address the child support obligations set forth in the temporary order.

¶16 Further, the circuit court properly recognized that Schultz had several opportunities to contest the temporary order and that he “was on notice as to the issues raised as to custody, placement, and child support.” The court found:

The record is clear after the August 2, 2007 hearing it took Mr. Schultz months to follow through on the most basic of requirements such as showing up to watch a[] [mediation] orientation video. Ultimately, he missed court and did not advise the clerk of his whereabouts.

Because Mr. Schultz did not pursue in person, in writing, or through an attorney contesting the order set forth following the August 2, 2007 hearing, that temporary hearing order became in effect the final order of the case.

¶17 Moreover, Schultz’s own actions demonstrate that he believed he was still obligated to pay child support. As noted above, he signed eleven orders acknowledging his obligation to pay child support, including orders that specifically set forth the \$192 per month due under the August 2007 order. He also moved to reduce child support, thus acknowledging his existing obligation.

¶18 In denying Schultz’s motion, the circuit court conducted an evidentiary hearing and received bench briefs from the parties before pronouncing a detailed oral ruling. The court properly exercised its discretion by giving reasonable effect to all of the orders as a whole, noting that the record created a consistent and unambiguous obligation on the part of Schultz to provide relatively modest support for his child. We therefore affirm.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT.
RULE 809.23(1)(b)5.

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A Limited Liability Organization

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Via E-file

February 26, 2019

THE HONORABLE JILL FALSTAD
CIRCUIT COURT BRANCH I
MARATHON COUNTY COURTHOUSE
500 FOREST STREET
WAUSAU WI 54402

**RE: In Re the Paternity KMS
Marathon County Case Number 03-PA-4PJ**

Dear Judge Falstad

Please consider the following as the brief of the Respondent in regards to the issues herein

OPENING STATEMENT As has been noted on the record this is a complicated case with a tangled skein of confusing motions, orders and proceedings. The Respondent, Steve Schultz, brought his motion to clarify the record. He has been brought before the Court previously for contempt for failing to pay child support and has criminal charges pending upon the same basis. To cut to the heart of the matter in these proceedings the key question is whether or not the last full court order setting the Respondent's child support obligation at \$0 per month was superseded by a temporary child support order entered on August 2, 2007, where there was never any properly filed or served petition, order to show cause or motion seeking to modify the judgment or the 2005 final order, and where the underlying proceedings were dismissed.

Steve has attempted repeated, albeit unsuccessfully, as the record shows, to have the errors in the record corrected. These include requests for review with either Corporation Counsel's Office, attorneys that have been involved in the case in one form or another, the Family Court Commissioner's Office, requesting on the record at the different court hearings that the record be reviewed, or through the motions that he has filed or attempted to have brought before the Court. These include his request for a review in October of 2010, a request before Judge Cane on May 26, 2011 to have the matter reviewed, a request for review on June 12, 2012, a request for a review during the hearing that was held on August 28, 2012, a request in September of 2012 to have his then Public Defender, Joey Roth, look into these matters for him, and his request for review from May 14, 2013. This is not to mention his repeated attempts throughout the proceedings held in this case to have recognition given to the fact that the August 2, 2007 Temporary Order was not valid, that no one had ever filed a proper motion to modify the underlying Judgment of the October 2005 Final Order, that the parties had continued to shared

PRINT in BLACK ink

Enter the name of the county in which you are filing this case	STATE OF WISCONSIN, CIRCUIT COURT, <u>MARATHON</u> COUNTY	For Official Use 2007 JUL 17
Enter the name of the petitioner. If joint petitioners, enter the name of the wife.	In re the marriage of Petitioner/Joint Petitioner-Wife: <u>Heather Marie Gustafson</u> First name Middle name Last name and	
Enter the name of the respondent. If joint petitioners, enter the name of the husband	Respondent/Joint Petitioner-Husband: <u>Steven Eugene Schultz</u> First name Middle name Last name	Order to Show Cause and Affidavit for Temporary Order With Minor Children <input type="checkbox"/> Divorce-40101 <input type="checkbox"/> Legal Separation-40201 Case No <u>03PA 4</u>
Check divorce or legal separation		
Enter the case number, if known. If unknown, leave blank		

ORDER TO SHOW CAUSE

Based on the attached Affidavit and Request for Hearing for Temporary Order,

IT IS ORDERED that the parties Show Cause, in Person

Before:

Sandra J. Marcus

Location:

Clerk Circuit Court Judge or Circuit Court Commissioner
BRANCH 101 MARATHON COUNTY COURTHOUSE
500 FOREST STREET, WAUSAU WI 54403

Date

Monday, July 30, 2007

Time

2:45 a.m./p.m.

or as soon as the matter may be heard, why a temporary order should not be entered for the relief requested in the attached affidavit

PENDING FURTHER COURT ORDER or written stipulation of the parties, neither party shall engage in any activity that negatively affects the health, safety or welfare of either party or minor children including but not limited to

- Both parties are restrained from harassing, intimidating, physically abusing, or imposing any restraint on the personal liberty of the other party, the other party's employer, or the minor children of the parties
- Both parties are prohibited from going upon the premises occupied by the other as a residence, except for purposes of a change in the physical placement of the minor children

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- Both parties are restrained from concealing the minor children of the parties from the other party and from removing the minor children from the state of Wisconsin during periods of physical placement for longer than 96 hours, without permission of the court or written consent of both parties
- Both parties are restrained from making any further debts against the credit of the other party. Further, unless otherwise ordered, any debt incurred after the date of this order is the sole responsibility of the party incurring the debt.
- Both parties are restrained from disconnecting any utility service or causing any other essential services of the residence of either party to be disconnected
- Both parties shall maintain all current beneficiaries on all life, medical, hospital, automobile, household or other insurances and in any current wills while this action is pending.

IT IS FURTHER ORDERED that both parties bring to this hearing a completed Financial Disclosure Statement.

Check your spouse and check the State if you are currently receiving public assistance. Check other if there is another party(s) to the action, and enter the party's name(s)

IT IS FURTHER ORDERED that a copy of this order, together with the supporting papers, be served in person at least 5 business days before the time of this hearing, upon the:

- ☐ Wife
☐ Husband
☐ State of Wisconsin through the county child support agency
☐ Other _____


Failure to appear as ordered may result in the issuance of a warrant directing the Sheriff to arrest you and bring you to court.

Failure to appear will not stop the court from proceeding with the hearing and making the orders requested by your spouse.

Parties are encouraged to arrive early and determine if any issues can be resolved before the hearing.

BY THE COURT:

For Court Use Only


 Circuit Court Judge/Circuit Court Commissioner
 Print or Type Name
 Date 7/17/07

AFFIDAVIT

1. My spouse and I have not agreed on a temporary arrangement while this action is pending, and there is a need for such an order
2. I request that a hearing be held concerning one or more of the following issues
 - Legal custody and physical placement
 - Child support
 - Maintenance
 - Use of the residence and other property
 - Payment of debts and financial obligations
 - Payment of insurance and health care expenses
 - Other relief the court believes appropriate
 - Other specific relief I believe appropriate
3. I request a hearing be held and a temporary order be entered pursuant to sec 767 23(1), Wis. Stats

If you need help in this matter because of a disability, please call 715/261-1300

STOP!

Take this document to a Notary Public **BEFORE** you sign it.

After you have been sworn by a Notary Public, sign and print your name and date the document in front of the Notary Public.

Have the Notary Public sign, date, and seal the document.

Subscribed and sworn to before me
on 7/17/07

Linda E. Maher

Notary Public, State of Wisconsin

My commission expires 5/1/2011

Heather Gustafson
Signature
Heather Gustafson
Print or Type Name
7/17/07
Date



STATE OF WISCONSIN

CIRCUIT COURT

MARATHON COUNTY

Heather Marie Gustafson
Petitioner
vs
Steven Eugene Schultz
Respondent

Temporary Order from 8/2/07 Hearing

Case No 03-PA-4

07 AUG -2 PM 4:00
CLERK OF CIRCUIT COURTS
MARATHON COUNTY -3

This matter came before the court on July 30, 2007 and August 2, 2007 on a motion to modify the May 30, 2003 order regarding placement. The petitioner and the respondent appeared in person, without counsel. Assistant Corporation Counsel Diane Meulemans appeared on behalf of the Marathon County Child Support Agency. Based on the evidence presented, it is hereby ordered.

- 1 The child shall be with her mother at all times, except she shall have time with her father as follows: Every other weekend from Friday at 6 p.m. until Sunday at 10 p.m., commencing 8/3/07, subject to the May 30, 2003 court order awarding the paternal grandparents placement during those hours. Since the petitioner did not file a motion for a change in the grandparents' visitation and the grandparents did not receive notice, this court will not amend the grandparents' visitation schedule at this time. Additionally, the father shall have placement with the minor child every Tuesday and Thursday from 5 p.m. until 8:45 p.m.
- 2 The parents shall communicate directly with each other, in a civil and business-like fashion, regarding the minor child. Grandparents, spouses and significant others are not to be used by either parent to communicate with the other parent with respect to the child. The husband is currently unemployed, and the court imputes a minimum wage of \$6.50/hour or \$1,127 per month gross income to him. Child support is awarded in the amount of \$192 per month from the father to the mother. The father shall also pay \$50/month toward the arrearages. Both child support orders are effective 8/1/07.
- 3 The father shall seek work, 15 verifiable job contacts provided to the child support agency per month during any period of time when he is either unemployed or underemployed. He shall notify the mother of the child and the Marathon County Child Support Agency of the terms of his employment within 48 hours of obtaining such employment.
- 4 The father shall provide medical, dental, and like insurance for the minor child if it is available to him at a reasonable cost through his employer.

THIS TEMPORARY ORDER IS WITHOUT PREJUDICE TO THE RIGHTS OF EITHER PARTY AND SHALL NOT BE CITED AS A PRECEDENT BY EITHER PARTY AS IT IS BASED UPON LIMITED INFORMATION AND TEMPORARY NEEDS AND IS SUBJECT TO REVISION AT ANY TIME PRIOR TO THE FINAL HEARING IN THE CIRCUIT COURT. ALL OTHER ORDERS OF THE COURT NOT INCONSISTENT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT.

DISOBEDIENCE OF THIS ORDER IS PUNISHABLE AS CONTEMPT OF COURT.

Dated. 8/2/07

By the Court:


Sandra J. Marcus
Circuit Court Commissioner

STATE OF WISCONSIN

CIRCUIT COURT

MARATHON COUNTY

In Re the Marriage of.

HEATHER GUSTAFSON

Petitioner

VS

STEVEN SCHULTZ

Respondent

Case No

03-PA-4CLERK OF CIRCUIT COURTS
MARATHON COUNTY - 3
09 AUG -5 PM 3:05**ORDER FOR PAYMENT OF COSTS & DEPOSITS**
Custody and Placement Actions

Upon notice and hearing and finding that custody/placement is disputed and an impasse in mediation has been reached, and finding that the party interested in moving forward with a hearing is

[] The petitioner

[] The respondent

IT IS HEREBY ORDERED, that the parties shall do all of the following and pay the following required costs and deposits to the Clerk of Courts for Marathon County by the date indicated below

	Total	Petitioner	Respondent
File Appropriate Motion			
Pay Filing Fees			
Guardian Ad Litem Deposit	1500	750	750
	Total	750	750
	Due Date in Full	09/08/09	09/08/09

If a party is financially unable to post the entire Guardian ad Litem Deposit by the due date, the party MUST report to the Marathon County Collection Specialist in the Clerk of Courts' Office immediately following the hearing. An Income Assignment is hereby ordered for all cases where a GAL is appointed. Income withholding will be effective after the deposit has been depleted unless an additional deposit is made. Payment plans will only be authorized when the Collection Specialist determines a party is financially unable to make the deposit.

THE PARTIES ARE FURTHER NOTIFIED:

- 1 The court will not appoint a guardian ad litem, order a custody investigation or set this matter for trial until the moving party has done all required of him/her/
- 2 If the moving party fails to do all that is required by the due date, any action commenced by that party thereafter shall require the payment of all costs and deposits in full. If an action has already been commenced, such action will be dismissed.
- 3 If the non-moving party fails to pay his/her share, the court will take this fact into consideration in determining the final division of the guardian ad litem and custody study fees.
- 4 Deposited funds will be applied to the Guardian ad Litem, Custody Study or Professional fees incurred as a result of the custody/placement dispute.

BY THE COURT on

8/5/09

C. Heather Gustafson
Steven Schultz
Corporation Counsel


SANDRA J. MARCUS
Court Commissioner and Director of Family Mediation

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