

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 20, 2008**

David R. Schanker  
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. 2007AP892**

**Cir. Ct. No. 2003FA149**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**IN RE THE MARRIAGE OF:**

**MICHELLE LEE SCHUTZ,**

**PETITIONER-RESPONDENT,**

**v.**

**WALTER WILLIAM SCHUTZ,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for Pierce County:  
ROBERT W. WING, Judge. *Affirmed.*

Before Higginbotham, P.J., Dykman and Bridge, JJ.

¶1 PER CURIAM. Walter Schutz appeals from an order and amended judgment increasing the amount of time the parties' child, Jordan, has physical

placement with his mother, Michelle Schutz. Walter argues that the circuit court erred in concluding that there had been a substantial change in circumstances since the last order affecting placement was entered and that the circuit court erroneously exercised its discretion in concluding that the modified placement schedule was in Jordan's best interest. We affirm.

¶2 Walter first argues that Michelle has not shown a substantial change of circumstances since the last placement order. A person seeking modification of an order for physical placement must show that there has been a substantial change of circumstances since the entry of the last order affecting physical placement. See WIS. STAT. § 767.451(1)(b)1.b. (2005-06);<sup>1</sup> *Landwehr v. Landwehr*, 2006 WI 64, ¶12, 291 Wis. 2d 49, 715 N.W.2d 180. Whether a party seeking to modify an existing placement order has shown a substantial change in circumstances is a question of law that we review de novo. *Greene v. Hahn*, 2004 WI App 214, ¶23 277 Wis. 2d 473, 689 N.W.2d 657.

¶3 We conclude that there has been a substantial change in circumstances since the last placement order was entered. Michelle has been successfully treated for bi-polar disorder, which was previously misdiagnosed. Michelle has been stable on her medications for the last two years. With her medical stabilization, Michelle has been able to maintain a residence and has completed school. The positive change in Michelle's health is a substantial change of circumstances because it has profoundly affected her functioning in many areas of her life.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

¶4 Walter next argues that the circuit court erroneously exercised its discretion in modifying the placement order and granting the parties nearly equal placement time. “A trial court’s consideration and weighing of factors to determine what course of action is in a child’s best interests is an exercise of discretion, and we may not substitute our own judgment for the trial court’s properly exercised discretion.” *Greene*, 277 Wis. 2d 473, ¶27. The statutes provide a rebuttable presumption that the status quo is in the best interest of the child. *See* WIS. STAT. § 767.451(1)(b)2.a.; *see also Landwehr*, 291 Wis. 2d 49, ¶12. Here, the court focused on a number of factors weighing in favor of changing physical placement, especially the importance of Jordan having significant time with both parents and being raised by both parents. The circuit court found that the overall advantages to Jordan of providing him the opportunity to spend more time with his mother outweighed any disadvantage to him in having to adjust to and maintain the change in his schedule. Because the circuit court’s decision was based on the facts of record and was reasonable, we conclude that the circuit court properly exercised its discretion in modifying the placement order. *See Greene*, 277 Wis. 2d 473, ¶30.

*By the Court.*—Order affirmed.

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

