

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 26, 2012

Diane M. Fremgen
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. 2011AP1031

Cir. Ct. No. 2006FA7189

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

IN RE THE MARRIAGE OF:

NICOLE SCHROEDER N/K/A NICOLE CHAFFEE,

PETITIONER-RESPONDENT,

v.

RONALD SCHROEDER,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
ELSA C. LAMELAS, Judge. *Affirmed.*

Before Curley, P.J., Kessler and Brennan, JJ.

¶1 PER CURIAM. Ronald Schroeder, *pro se*, appeals an order denying his motion to modify the circuit court's order establishing phone visitation with his children. He contends that the order should be modified

because there has been a substantial change in circumstances since entry of the order that prevents him from exercising his right to visit with his children by telephone from the prison where he is incarcerated. We conclude that Schroeder has not demonstrated a substantial change in circumstances. Accordingly, we affirm.

¶2 On May 11, 2010, the circuit court issued an order allowing Schroeder supervised telephonic visits with his children. The order provided: “All telephonic communication shall be supervised by either the children’s respective counselor and/or therapist. Prior to the first telephone call..., Ms. Kristin Koepke of Lutheran Social Services shall call [Schroeder] to discuss the telephone calls in general and establish any ground rules relative [to] said communication.” The order also provided that “if periods of placement are reduced to less than once per month, Mr. Schroeder has the right to bring this matter back to court.”

¶3 Koepke, who has been the children’s therapist for some time, agreed to facilitate telephonic communication between Schroeder and his children before the order of May 11, 2010 was entered, but informed the parties after the order was entered that her employer, Lutheran Social Services, would not allow her to supervise the telephone visits. After Koepke informed the parties that she could not supervise the phone calls, the attorney for Nicole Chaffee, the children’s mother, sent a letter to Schroeder indicating that Chaffee had been unable to locate another therapist willing to supervise given her financial limitations, which would not accommodate the high fees charged by the persons she had contacted.

¶4 After receiving Chaffee’s letter, Schroeder proposed that either a chaplain from the prison, a personal friend, or a Catholic priest be allowed to

supervise the visits. Chaffee objected on the grounds that none of the individuals Schroeder proposed was a “counselor and/or therapist” for the children. Schroeder then brought this motion to modify the order for telephonic visits, which the circuit court denied.

¶5 Schroeder contends that the visitation order should be modified because Koepke is not able to supervise the visits, contrary to what the parties anticipated at the time the order was entered. Although the circuit court’s order granting telephonic visits suggests that the parties contemplated that Koepke would supervise, the order does not state that Koepke is the only therapist authorized to supervise the visits; the order provides that the telephonic visits shall be supervised by a “counselor and/or therapist” working with the children. Chaffee’s attorney’s letter indicating that Chaffee attempted to find another therapist or counselor who would undertake supervision after Koepke declined underscores this point.

¶6 Schroeder has not alleged that he attempted to locate a therapist or counselor able to work with the children who would be willing to supervise the visits. While Schroeder proposed supervision by several people, his proposed supervisors were not in compliance with the order’s mandate that the person supervising the calls be a counselor or therapist working with the children. The fact that Koepke has refused to supervise the visits is not, by itself, sufficient to establish a substantial change in circumstances because Schroeder has not shown that he is unable, or has even attempted, to find a therapist or counselor who would work with the children and supervise the visits. If Schroeder is unable to do so, he may then move for modification of the order on the grounds that he is unable to fulfill the conditions listed in the order for telephonic visitation.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE
809.23(1)(b)5. (2009-10).

