

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

OCTOBER 17, 1995

NOTICE

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

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

Nos. 95-1131
95-1132

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**IN THE INTEREST OF
DAVID E. V., A PERSON
UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

DAVID E. V.,

Defendant-Appellant.

APPEALS¹ from an order of the circuit court for Outagamie County: DENNIS C. LUEBKE, Judge. *Affirmed.*

CANE, P.J. David E. V. appeals the juvenile court's order extending his custody with the Department of Health and Social Services for a period of one year. David had previously been found delinquent for numerous violations and placed at the Lincoln Hills School. The State then transferred his placement to the Ethan Allen School where he was charged with battery to a

¹ These appeals were consolidated on June 21, 1995.

staff member. While that charge was pending before another court, the State petitioned for a one-year extension of David's custody.

David raises two issues on appeal. First, he contends that at the extension hearing the trial court failed to make the necessary findings of fact and conclusions of law required under § 48.365(2m)(a), STATS. Second, he contends the record fails to establish that he knowingly and voluntarily waived his right to counsel. This court rejects his contentions and affirms the order.

Section 48.365(2m)(a), STATS., provides in pertinent part that, at the extension hearing, the judge shall make findings of fact and conclusions of law based on the evidence, including a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the child to make it possible for the child to return to his or her home. As counsel for David notes, this was a very short hearing where much of the discussion centered on the charges pending in adult court against David for battery to a staff worker at Ethan Allen School. However, attached to the petition for extension of David's custody was a lengthy narration of David's history in the juvenile justice system and reasons for the requested extension. Although the transcript of the extension hearing is short, it appears that because David was not disputing the requested extension, there was no need for an extended hearing because all the necessary information was before the court.²

Contrary to David's argument, the court entered a written order setting forth its findings of fact and conclusions of law. The court found that the allegations in the petition had been proven, and it adopted the allegations as its findings of fact. Additionally, it approved the petition and specifically found that, "Continuation of the child in the parent or relative's home is contrary to the welfare of the child and reasonable efforts have been made to prevent or eliminate the removal of the child from the home."

Next, David contends the record fails to establish that he knowingly and voluntarily waived his right to counsel at the extension hearing.

² Although there was no specific admission to the allegations in the petition, that issue was not raised on appeal, and therefore this court will not address it.

Again the record is sparse on this issue, but it does reflect that at the beginning of the hearing, David received and read a copy of the petition which outlined his right to have an attorney. Additionally, the petition demonstrates that David has had previous delinquency hearings where he was represented by an attorney. Finally, the court specifically asked him on two occasions whether he wanted an attorney, and on each occasion David indicated that he wanted to appear without an attorney. David waived his right to counsel. Therefore, the order extending David's custody for a period of one year is affirmed.

By the Court. – Order affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.