COURT OF APPEALS
DECISION
DATED AND FILED

June 24, 2014

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2013AP1854 **Cir. Ct. No. 2013CV60**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

CALLISA S. ROSE,

PETITIONER-RESPONDENT,

V.

CHARLES WALKER,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Price County: DOUGLAS T. FOX, Judge. *Affirmed*.

Before Hoover, P.J., Mangerson and Stark, JJ.

¶1 PER CURIAM. Charles Walker, pro se, appeals a child abuse injunction order, challenging the sufficiency of the evidence. We affirm.

¶2 Callisa Rose petitioned for the injunction after she suspected sexual abuse by Walker of their three-year-old daughter. Following a hearing, the circuit

court granted the injunction for a period of two years. However, the court concluded it would not be in their child's best interest to have no contact with her father, and therefore allowed supervised visitation.

¶3 A circuit court has discretion whether to grant a child abuse injunction under WIS. STAT. § 813.122[1] if there are reasonable grounds to believe that the respondent has engaged or may engage in abuse of the child. *See* ***M.Q. v. Z.Q.***, 152 Wis. 2d 701, 708, 449 N.W.2d 75 (Ct. App. 1989). We apply a mixed standard of review to the circuit court's decision to grant an injunction. *See* ***Kristi L.M. v. Dennis E.M.***, 2007 WI 85, ¶¶21-22, 302 Wis. 2d 185, 734 N.W.2d 375. We will uphold the circuit court's determinations regarding the facts unless clearly erroneous, but independently review the legal conclusions based upon those established facts. ***Id.***

¶4 As a threshold matter, Walker challenges Rose's credibility. In ascertaining witness credibility, the trial court acting as the fact finder is the final arbiter. *See* ***Noll v. Dimiceli's, Inc.***, 115 Wis. 2d 641, 644, 340 N.W.2d 575 (Ct. App. 1983). Walker nevertheless argues Rose's testimony was inherently or patently incredible or in conflict with established facts. We reject this contention. The court's credibility determinations were not clearly erroneous.

¶5 The court observed that with a child of this age, there is always the possibility that the child is mistaken, deliberately falsifying, or being coached or encouraged. However, the court specifically rejected any suggestion that the child

[1] References to the Wisconsin Statutes are to the 2011-12 version.

was deliberately falsifying allegations. The court found the allegations were of a type that a child of this age would not likely make up.

¶6 The court also concluded it was unlikely Rose was coaching or encouraging the child. The court stated, "One thing of particular note about this case is although there was a placement dispute between these parties, that dispute had ended before these allegations arose." The court found Rose would have little motive to gain an advantage in litigation as its prior order regarding placement "was basically exactly what she was seeking by way of placement." The court concluded, "I did not get the impression … that Ms. Rose was in any way slanting her testimony or attempting to exaggerate any of the observations that she made, falsifying any of the observations that she made." The court also noted, "[W]hat's more, in the placement dispute I did not hear Ms. Rose indicating that she didn't want [the child] to be having contact with her father …."

¶7 The court further observed that this was not a situation where one parent was taking a child to a counselor on their own initiative for reasons "that would tend to increase my skepticism about disclosures that the child might make to the counselor." The court stated the allegations in this case arose because of the child's interaction during counseling sessions that the court had ordered during the family court proceedings. Moreover, the court found "there was nothing that I could point to in [the counselor's] testimony that sounded as though she were coaching or prompting the child."

¶8 The court also found the questioning techniques of the counselor did not appear to be suggestive. By way of example, "[the child] was asking [the counselor] to help her draw a depiction of the pose that [the victim] had

demonstrated to [the counselor] earlier with her forehead on the floor and her buttocks in the air."

¶9 The court stated:

> … And if Ms. Rose is accurately reporting what she observed about this child – and I believe that she is – and if I can rely upon [the counselor's] testimony that the things that Ms. Rose reports are things that are consistent with child sexual abuse, then that at least raises a red flag in my mind. It certainly doesn't prove anything, but it causes great concern on my part.
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> Ms. Rose indicated why, I think as early as last fall, she was having concerns about [the child's uncle] being in the home with [the child], and she raised those concerns to Mr. Walker. Mr. Walker did at some point agree that [the uncle] would not be present in the home when [the child] was there, which I think, by implication at least, indicates that Mr. Walker was not prepared to say that that was a groundless concern on the part of Ms. Rose. [The child], to the extent that she could articulate, did appear to articulate reasonably clearly that she believed that she had been the subject of improper behavior on the part of [the uncle].
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> ….
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> Mr. Walker had, according to Ms. Rose in her testimony today, displayed some concerning behaviors during the time that Ms. Rose and Mr. Walker resided together. … And notwithstanding the fact that Ms. Rose apparently raised her concern with Mr. Walker, that situation continued and I understood increased in frequency toward the end of their relationship. And, additionally, Ms. Rose reports that she had discovered evidence that Mr. Walker had shown an interest in child pornography and in particular shown an interest in child pornography that involved adult men and prepubescent children engaging in anal sex.

¶10 The court concluded the evidence of the child's disclosures to the counselor were stronger regarding her uncle, "but [the child] did seem to indicate I think as unambiguously as [she] is able to indicate at her age that there were things that were going on both at the hands of [the child's uncle] and at the hands of

Mr. Walker ….” Ultimately, the court agreed with the guardian ad litem that this was “a murky case,” and one that “doesn’t have any clear signposts, but nonetheless, given the low standard here, I do find that there are reasonable grounds to believe that [the child] has been the subject of sexual abuse by … Mr. Walker.”

¶11 Walker nevertheless argues the circuit court improperly based portions of its judgment on “previous litigation.” He also contends that the unchallenged testimony concerning his interest in child pornography would have been challenged “had the court given me notice that the unchallenged testimony would be held as fact.” We reject these arguments for several reasons. First, the arguments are undeveloped and we will not consider undeveloped arguments. *See* ***M.C.I., Inc. v. Elbin***, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988). Second, Walker had ample opportunity at the trial court to raise the issues and did not. He has therefore forfeited the arguments on appeal. *See* ***Reiman Assocs., Inc. v. R/A Adver., Inc.***, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292 (Ct. App. 1981). Finally, contrary to Walker’s perception, the circuit court is not required to, and indeed the court’s neutrality precludes it from, providing legal advice to pro se litigants. We conclude there were sufficient grounds to support the injunction.

By the Court.—Order affirmed.

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