COURT OF APPEALS
DECISION
DATED AND FILED

July 9, 2014

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2014AP513-FT **Cir. Ct. No. 2007FA960**

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

IN RE THE FINDING OF CONTEMPT IN
IN RE THE MARRIAGE OF:

CHERYL MARIE BROWN-DONEY P/K/A CHERYL M. OLDENHOFF,

PETITIONER-APPELLANT,

V.

QUINN RYAN OLDENHOFF,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Waukesha County: LINDA M. VAN DE WATER, Judge. *Affirmed*.

¶1 NEUBAUER, P.J.[1] This is a contempt case. Cheryl Marie Brown-Doney, p/k/a Cheryl Oldenhoff, appeals from an order finding her in contempt of court and imposing sanctions in favor of the respondent, Quinn Oldenhoff. Because the scope of our review is limited to mistake or misuse of discretion, and there is evidence supporting the circuit court's findings, we affirm.

¶2 The underlying dispute is about visitation. We need not go into all the details of the dispute between the parties. Brown-Doney and Oldenhoff are divorced and have a child together. At the time of the contempt finding, Oldenhoff was living in Alaska. In a December 19, 2013 order, the circuit court ordered that the child have a one-hour visitation with Oldenhoff via Skype once every two weeks. These Skype visitation sessions were to take place in the house of Gina Oldenhoff, which is in Watertown. Brown-Doney and the child lived in Hartland.

¶3 The February 19, 2014 contempt order focuses on three instances in which Brown-Doney failed to comply with court orders. First, Brown-Doney did not take the child to a Skype visitation session that was scheduled for January 11, 2014. Second, a January 25, 2014 Skype visitation session was not completed. Third, the circuit court found that Brown-Doney failed to enroll in the Peaceful Families program by January 18, 2014, as was required by the circuit court's order. The guardian ad litem (GAL) filed the motion for contempt.

¶4 Under WIS. STAT. § 785.01(1)(b), "contempt of court" means intentional "[d]isobedience, resistance or obstruction of the authority, process or

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(h) (2011-12). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

order of a court." Whether conduct constitutes contempt is a decision committed to the circuit court's discretion. ***Currie v. Schwalbach***, 132 Wis. 2d 29, 36, 390 N.W.2d 575 (Ct. App. 1986), *aff'd*, 139 Wis. 2d 544, 407 N.W.2d 862 (1987). A circuit court's determination of contempt will not be reversed on appeal unless there is a clear mistake or misuse of discretion. ***Kaminsky v. Milwaukee Acceptance Corp.***, 39 Wis. 2d 741, 746, 159 N.W.2d 643 (1968). In reviewing the circuit court's decision, we defer to the circuit court's findings of fact unless they are clearly erroneous. ***Currie***, 132 Wis. 2d at 36.

¶5 Brown-Doney argues that the circuit court's order "was not founded by facts, testimony, or evidence presented at the … hearing" and that the decision was a misuse of discretion.

¶6 Regarding the January 11, 2014 missed Skype visitation session, there is no dispute that Brown-Doney did not take the child to that session. Brown-Doney testified that she did not want to drive to Watertown because the roads were icy, but she also admitted that she had told the GAL the day before that she was not going to take the child to the session. Brown-Doney explained that she wanted the GAL to conduct a home visit because of safety concerns about the house where the session was to take place. There also was testimony that Brown-Doney had attempted to call Oldenhoff to make up the visit. Ultimately, however, it was undisputed that Brown-Doney had failed to take the child for the scheduled session.

¶7 Regarding the January 25, 2014 session, there is no dispute that the child left the session early and that Brown-Doney did not take him back to the house to complete the session. The child left that session early and went out to Brown-Doney's car. Brown-Doney did not take the child back to the house to

finish the session. While Brown-Doney explained that this was because the child was crying and hysterical, a social worker present for the session testified that when the child left the house he was neither crying nor hysterical. Either way, it is undisputed that Brown-Doney did not take the child back to the house to complete the session.

¶8 Finally, there is some ambiguity in the testimony regarding the court-ordered enrollment in Peaceful Families. Brown-Doney was supposed to enroll in the program no later than January 18, 2014. At the February 6, 2014 hearing, she testified that she had enrolled "approximately three to three-and-a-half weeks ago." However, she had no documentation to back up her testimony. The circuit court found that Brown-Doney was "unable to show the date on which she enrolled" and that she "did not provide proof of enrollment."

¶9 "The credibility of witnesses and the weight to be attached to that evidence is a matter uniquely within the discretion of the finder of fact." ***Lellman v. Mott***, 204 Wis. 2d 166, 172, 554 N.W.2d 525 (Ct. App. 1996). Furthermore, a finding of contempt is in the circuit court's discretion. ***Currie***, 132 Wis. 2d at 36. We cannot say that the circuit court's factual findings were unsupported by the record. We therefore affirm.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.