COURT OF APPEALS
DECISION
DATED AND FILED

June 24, 2015

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 Nos. 2014AP2004
2014AP2005

Cir. Ct. Nos. 2014TP2
2014TP3

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

NO. 2014AP2004

IN RE THE TERMINATION OF PARENTAL RIGHTS TO M.H.,
A PERSON UNDER THE AGE OF 18:

CAROLINE P.,

PETITIONER-APPELLANT,

V.

SHAWN H.,

RESPONDENT-RESPONDENT.

NO. 2014AP2005

IN RE THE TERMINATION OF PARENTAL RIGHTS TO E.H.,
A PERSON UNDER THE AGE OF 18:

CAROLINE P.,

PETITIONER-APPELLANT,

V.

SHAWN H.,

RESPONDENT-RESPONDENT.

APPEALS from orders of the circuit court for Florence County: LEON D. STENZ, Judge. *Reversed*.

¶1 HOOVER, P.J.[1] Caroline P. appeals the orders terminating her parental rights to M.H. and E.H. She argues her consent to terminate her parental rights was not voluntary and informed; the circuit court's determination that it was in the children's best interest to terminate her parental rights was unsupported by evidence; and it was not in the children's best interest to terminate her parental rights because court-ordered child support was terminated. Because we conclude the circuit court lacked the proper evidentiary foundation to support its decision to terminate, we reverse.[2]

[1] These appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

[2] Pursuant to WIS. STAT. RULE 809.82(2)(a), we exercise our authority to extend the time for issuing our decision in these appeals until today's date. *See* ***Rhonda R.D. v. Franklin R.D.***, 191 Wis. 2d 680, 694, 530 N.W.2d 34 (Ct. App. 1995).

BACKGROUND

¶2 Caroline P. filed a voluntary petition to terminate her rights to M.H. and E.H. in May of 2014.[3] The court conducted hearings on June 10, July 1, July 15, and July 21 before ultimately terminating Caroline's parental rights on July 29, 2014.[4]

¶3 At the June 10 hearing, the court observed, addressing Caroline, "We also are here today for the guardianship hearing. You filed a request for change of placement. I believe that was initially what we were going to accomplish today." It continued:

> However, before we could proceed today, I now note that you have once again filed a Petition for Termination of Parental Rights. Um this may be the 11th and 12th such petition that you have filed in the past.
>
> As you recall from last, I believe, it was October, we had set a plan of reunification for you to follow so that you could have contact with your kids again. And at that time just when we get involved in the plan and working toward that end you file termination of parental rights cases and correspondence with the Court indicating that you have no desire to have any contact whatsoever with your children and you no longer want to be considered a parent of your children.
>
> That, clearly, frustrates the Court's prior orders. And we attempted to provide contact for you and your kids. But

[3] M.H. and E.H. are the biological children of Caroline and her ex-husband, Shawn H. Their respective years of birth are 2000 and 2002. This is the most recent of numerous voluntary termination of parental rights petitions Caroline has filed in the recent past.

[4] The final termination hearing was originally scheduled for July 1. The recently appointed guardian ad litem was unprepared to proceed, and the case was adjourned to July 15. Shawn was not present at the July 15 hearing, and the guardian ad litem informed the court that Shawn had not responded to his phone calls, and therefore, the guardian ad litem had been unable to speak with Shawn or the children. The court entered an order to show cause and scheduled a hearing for July 21, at which Shawn denied receiving the guardian ad litem's calls.

> then I get the petition for parental rights indicating that you believe that it is in the best interest of the children that any contact between you and them be terminated.

¶4 Accordingly, the court stayed further activity in the divorce file, and noted it would not "consider an order to show cause to change legal custody or placement or set forth parameters upon which [Caroline] [could] once again regain custody, placement, or contact with the children until such time as we have decided the termination of parental rights cases." The court explained, "There is really little sense in the Court going through this process to have you reunite with your children, [Caroline], when your most recent request to the Court is to have no contact with them." Caroline expressed her frustration at her previous, unsuccessful attempts to gain custody, and, regarding her termination of parental rights petition, stated:

> And so, … that's why I scheduled the termination of rights hearing because, um, according to the—from what I read in the termination of rights, the—I have the duty to pay child support, which that as far as I know that is all that I have right now, the right to have legal heirs, which would be the kids. But I can [bequeath] everything to them whether they are my children, or not, whether we are related or not. And I am giving up the right to custody and visitation.
>
> But I do not believe that I have the right to custody and visitation. I don't believe that I ever had that right to custody and visitation. I believe that Shawn H[.], you know, is able to deny me custody and visitation … just on a whim he is able to deny me or withhold it from me.

¶5 The court interjected:

> The Court: That is part of the problem that we've had throughout the process, [Caroline], you really don't understand what is going on—
>
> Caroline: But this is—
>
> The Court: —despite our best efforts to advise you to that. I advised you numerous times you do have a right to

> placement. [Shawn] didn't den[y] you. The Court has not granted it based upon your conduct.
>
> Caroline: Can I just continue?
>
> The Court: No. I am telling you that you have the wrong premise. I believe that you believe that ….

Caroline requested that the court hold a custody hearing prior to the termination hearing because, "this is what I am saying: I don't have that right [to custody and visitation]. So, it seems like I need a custody hearing to be able to obtain that right … before I even terminate." The court denied her request. Caroline then asked if she would be able to have a custody hearing if she canceled her termination motions. The court responded, "No. I am not going to do that. We are going to proceed with the petitions. You can, I guess, withdrawal [sic], if you want to … withdraw. But I am not going to conduct any hearing on that, on the custody today." Toward the end of the hearing, Caroline returned to the topic of withdrawing her termination petitions. The court instructed her, "[I]f you want to file something in writing and voluntarily dismiss the termination of parental rights case feel free to do so. If I get it before we schedule something I will let you know."

¶6 Caroline filed a document dated June 10, titled, "Motion to Withdraw TPR Motions and Request New GAL," which was file-stamped by Florence County's Clerk of Court June 11. In an "Order on Emergency Petition for Termination of Parental Rights" dated June 16, the court ordered: "[Caroline] was advised of her right to judicial substitution which she declined to exercise. The Court will appoint a Guardian ad Litem and reschedule the hearing. No further action was taken at this time." Caroline's motion to withdraw was not addressed.

¶7 The court appointed a new guardian ad litem in the termination of parental rights case, Thomas Roley, and the final hearing was conducted on July 29, 2014. Caroline, Shawn, and the guardian ad litem were present at the hearing. Caroline confirmed she wished to proceed with the termination of her parental rights. She testified she has a bachelor's degree in pharmacy, and has been employed as a full-time pharmacist for over twenty-five years. The court asked Caroline questions about her education, her general level of comprehension, her understanding of the nature of the proceedings and the consequences of termination, including the finality of the court's order. Caroline maintained her stance on her perception of her rights at the July 29 hearing, telling the court, when it asked her what termination of parental rights meant to her and her children:

> I believe that I am not really losing anything by terminating my rights because as of now I don't … believe that I have any rights to the children other than to pay child support and the right to legal heir. But I can still make them my heirs. And I don't have parental custody or placement or visitation. So, um, so when I leave here today nothing will be any different in my life whether I sign away my rights, or not.

¶8 Caroline claimed she had never been able to hold Shawn accountable for withholding court-ordered visits, calls, and appointments, and estimated that if she had requested to terminate her rights eleven times, "I am guessing that I probably requested to have custody hearings probably 111 times. So I think that … I've done all that I could to try to get custody and visitation and I still don't have it. So, I believe that I cannot get it." The court repeatedly instructed Caroline that she had the right to petition for custody and placement regardless of whether she believed she could be successful. Caroline conceded

only that she believed she had "the right to file motions but I also believe that the Court has the right to deny me hearings for the motions."

¶9 Caroline was the sole person to testify at the termination hearing and no exhibits were entered into evidence. The court heard statements from Shawn and the guardian ad litem, both of whom supported the termination. Caroline requested the opportunity to respond and was denied. The court stated it had "considered … the testimony presented. I also considered the report and the recommendation of the guardian ad litem. I've considered the statements of [Shawn]." It found Caroline was competent to make an informed and voluntary decision regarding the termination of her parental rights, and it believed she understood the proceedings. It continued,

> It is clear that [Caroline] has freely, voluntarily, and intelligently requested termination of parental rights. It is clear that the best interest of the children will be fostered by terminating her parental rights.
>
> I have considered the age of the children now, as opposed to when the divorce happened.[5] There has been no significant contact for many years. The children have gone on. And as [Shawn] said, everybody just wants to get over this and move on. And the only one [who] is unable to do so is [Caroline]. And by her inability to move on and get over it, she constantly frustrates, complicates the children's lives.
>
> So, I think it would be in the best interest considering the current situation of the children. I think that they can have finally some peace and a substantial relationship without the constant threat of all of these filings and harassments by their mother, which the children have indicated that they want the termination of parental rights. The mother wants the termination of parental rights. And [the] father believes it is in the children's best interest as well.

[5] The third and final day of the contested divorce hearing was October 24, 2012.

> I think that they can enter into a more stable life, more peaceful life, less—a life with less stress and less turmoil if they don't have to continue to go through this. Like I said, the likelihood of [Caroline] eventually obtaining custody, as [the guardian ad litem] said, is suspect based upon her past conduct. She seems totally unwilling to do what it takes to have, receive custody of the children.
>
> ….
>
> So, I think that it is in the children's best interest. I will find—I don't know if it is required to find the mother is unfit in a voluntarily [sic], consensual situation. But I will find that based upon how things have happened and the inability to maintain the relationship with the children, her constant creation of frustration and turmoil for the children and stress—
>
> And I think that the stress is actually, if you recall from the last report of Mrs. Nielsen[6] in the family case, is having a significant toll on the children, as well.
>
> So, I will terminate the parental rights of [Caroline]. Guardianship, placement, and care will remain with Shawn. Any responsibility for child support will end today.

¶10 Caroline appeals.

STANDARD OF REVIEW

¶11 WISCONSIN STAT. § 48.41 governs the voluntary termination of parental rights, and it grants a circuit court discretion to terminate the parental rights of a consenting parent as long as it determines, first, that the consent to termination is informed and voluntary.[7] WIS. STAT. § 48.41(2)(a). Second, the

[6] A previous guardian ad litem in the custody case.

[7] The "basic information the circuit court must ascertain to determine on the record whether consent is voluntary and informed" was set forth in ***T.M.F. v. Children's Service Society of Wisconsin***, 112 Wis. 2d 180, 188, 196-97, 332 N.W.2d 293 (1983):

> 1. the extent of the parent's education and the parent's level of general comprehension;

(continued)

circuit court must consider the criteria set forth in WIS. STAT. § 48.426 regarding the children's best interests. WIS. STAT. § 48.41(1). Section 48.426 provides:

> **(1)** COURT CONSIDERATIONS. In making a decision about the appropriate disposition under s. 48.427, the court shall consider the standard and factors enumerated in this section ….
>
> **(2)** STANDARD. The best interests of the child shall be the prevailing factor considered by the court in determining the disposition of all proceedings under this subchapter.
>
> **(3)** FACTORS. In considering the best interests of the child under this section the court shall consider but not be limited to the following:
>
> (a) The likelihood of the child's adoption after termination.
>
> (b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.
>
> (c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.
>
> (d) The wishes of the child.

> 2. the parent's understanding of the nature of the proceedings and the consequences of termination, including the finality of the parent's decision and the circuit court's order;
>
> 3. the parent's understanding of the role of the guardian ad litem (if the parent is a minor) and the parent's understanding of the right to retain counsel at the parent's expense;
>
> 4. the extent and nature of the parent's communication with the guardian ad litem, the social worker, or any other advisor;
>
> 5. whether any promises or threats have been made to the parent in connection with the termination of parental rights;
>
> 6. whether the parent is aware of the significant alternatives to termination and what those are.

> (e) The duration of the separation of the parent from the child.
>
> (f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

¶12 Whether a parent gave voluntary and informed consent to terminate his or her parental rights is a legal conclusion "derived from and intertwined with the [circuit] court's factual inquiry during which the [circuit] court has had the opportunity to question and observe the witnesses; the [circuit] court is thus better prepared to reach a just and accurate conclusion than is an appellate court." ***T.M.F. v. Children's Serv. Soc'y of Wis.***, 112 Wis. 2d 180, 188, 332 N.W.2d 293 (1983).

¶13 "Once a [circuit] court is satisfied that the consent is voluntary, the [circuit] court moves on to the 'disposition' stage and decides, [in its discretion,] upon the evidence, whether termination is warranted." ***A.B. v. P.B.***, 151 Wis. 2d 312, 319-20, 444 N.W.2d 415 (Ct. App. 1989). The circuit court may "either enter an order terminating parental rights, if the evidence supports termination, or dismiss the petition if the evidence does not." ***Id.*** at 320. A circuit court properly exercises its discretion when it employs a rational thought process based on an examination of the facts and an application of the correct standard of law. ***Sheboygan Cnty. DHHS v. Julie A.B.***, 2002 WI 95, ¶¶42-43, 255 Wis. 2d 170, 648 N.W.2d 402.

DISCUSSION

¶14 Caroline argues the circuit court was not presented with sufficient evidence during the July 29 termination hearing to support its determination that

termination was in the children's best interest under WIS. STAT. § 48.426(2)-(3). Despite the court's undoubtedly extensive and painful familiarity with the family's situation, we agree that the record before us does not sufficiently support its best-interest determination.

¶15 The guardian ad litem[8] concedes, "Reviewing the transcript from the hearing, the judge did not systematically address each of the six statutory factors when announcing [its] findings and conclusions. The signed order to terminate Carole [sic] P.'s parental rights did, however, confirm that the court considered the statutory factors." The guardian ad litem asserts that Caroline's argument "improperly operates in a vacuum." He cites case law indicating we may "review the record anew and affirm [the circuit court's findings] if a preponderance of evidence clearly supports the judgment." ***State v. Margaret H.***, 2000 WI 42, ¶37, 234 Wis. 2d 606, 610 N.W.2d 475. He further argues,

> The record as a whole reflects that, as of the July 29, 2014 hearing, the circuit court judge was already very familiar with the underlying and complicated facts of the case for years. During the hearing the court made numerous references to the history to confirm his familiarity. Dating back nearly four years, the circuit court judge had considered evidence and argument, and issued rulings regarding custody/placement, and conditions Carole [sic] P. needed to satisfy to reestablish a relationship with the children. The judge had the benefit of four different guardians ad litem who reported over time the status and recommendations. The judge had the benefit of reviewing the voluminous filings by Carole [sic] P. that provided insight regarding the ongoing status of the case.

[8] On appeal, guardian ad litem Patrick Finlan submitted a brief. Shawn did not submit a brief independent of the guardian ad litem's.

¶16 Caroline argues the court's familiarity does not remedy the insufficient evidence presented at the termination hearing. She notes, "If the guardian ad litem present at the termination hearings presented actual evidence from prior custody hearings showing Caroline's alleged failures to follow reintegration plans, her alleged instability, and any other claims made but not backed by evidence, then it would be a different story." As it was, she argues, "statements made by the court or the guardian ad litem not supported by evidence cannot be considered when determining whether the court appropriately considered all factors under WIS. STAT. § 48.426(3)." Caroline argues the guardian ad litem made recommendations that were not based on evidence presented to the court, and identifies perceived deficiencies in its evaluation of the children's best interest. For example, she asserts, "the record is devoid of any counseling reports, evaluations, testimony from witnesses, lay or expert, or any other evidence to portray and rationalize the children's alleged wishes and motivations to no longer have a mother."

¶17 Like Caroline, we too are concerned that much of what the court relied upon in its decision making—Shawn's statements, and the guardian ad litem's report and recommendation—are, without meritorious dispute, simply not evidence. Providing the court with his or her impressions is part of a guardian ad litem's duties. *See* ***Guenther D.M. v. Dennis L.M.,*** 198 Wis. 2d 10, 22-23, 542 N.W.2d 162 (Ct. App. 1995). However, the guardian ad litem's report should not contain factual information that is not a part of the record, and its position and observations are not, in and of themselves, evidence. *See* ***Hollister v. Hollister***, 173 Wis. 2d 413, 419-20, 496 N.W.2d 642 (Ct. App. 1992); ***Stephanie R.N. v. Wendy L.D.***, 174 Wis. 2d 745, 774, 498 N.W.2d 235 (1993).

¶18 The guardian ad litem asserts that any procedural noncompliance amounts to harmless error if we consider the record as a whole. However, the two[9] cases he cites for support are inapposite. In ***Evelyn C.R. v. Tykila S.***, 2001 WI 110, ¶19, 246 Wis. 2d 1, 629 N.W.2d 768, when the mother defaulted, the court did not take evidence at the fact-finding hearing, but instead found abandonment based on the record. This error was ultimately held to be harmless because sufficient evidence was in the record and submitted to the court at the dispositional hearing to support the court's ruling at the fact-finding hearing. ***Id.***, ¶¶33-35. Here, there was no fact-finding hearing because the case began with a voluntary termination petition, and insufficient evidence was presented at the dispositional stage of the July 29 hearing to create a record to support the court's best interest determination and termination decision.

¶19 The guardian ad litem also directs us to ***Waukesha County v. Steven H.***, 2000 WI 28, 233 Wis. 2d 344, 607 N.W.2d 607. There, our supreme court determined the circuit court failed to comply with statutory requirements when it failed to hear testimony in support of the allegations in the petition to terminate parental rights. ***Id.***, ¶56. Nevertheless, the supreme court held the father was not prejudiced because sufficient facts could "be teased out of the testimony of other witnesses at other hearings when the entire record is examined." ***Id.***, ¶¶57-58. Unlike ***Steven H.***, the previous hearings in the record before us—in the termination of parental rights cases—do not provide sufficient testimony that "can be teased out" to support the circuit court's ultimate conclusion. Further, Steven

[9] The guardian ad litem's brief provides three case citations to support its harmless-error argument. However, ***Evelyn C.R. v. Tykila S.***, 2001 WI 110, 246 Wis. 2d 1, 629 N.W.2d 768, is the same case as ***In re the Termination of Parental Rights to Jayton S.***, 2001 WI 110, 246 Wis. 2d 1, 629 N.W.2d 768.

H. never challenged the sufficiency of the evidence, but instead challenged the sufficiency of notice to terminate. ***Id.***, ¶59.

¶20 Caroline also asserts there was insufficient evidence concerning the impact of the loss of court-ordered child support on the children's standard of living. In this regard, she argues the termination hearing lacked evidence that showed other controlling considerations outweigh the benefits of her child support obligation. Caroline indicates:

> No evidence was provided to show that the children's standard of living would not be adversely affected with the loss of these funds. There was also no evidence as to whether Shawn was on any government programs, such as Badgercare or Foodshare, to help support the children, or whether he had any other family support obligations. In fact, the only time Shawn's financial situation was discussed was when Mr. Roley [(the guardian ad litem at the termination hearing)] described Shawn's reaction to the loss of the child support, stating that Shawn "kind of" gave him the reaction of "Well, I will manage." No proof of Shawn's income was entered onto the record, and there was no determination as to whether his income is substantial enough to raise his daughters in a manner consistent [with] the standard of living they enjoyed either when the family was intact or when Caroline was still paying child support.

She argues, "Parental rights may not be terminated merely to advance the parents' convenience and interests, either emotional or financial …. Simply put, no parent may blithely walk away from his or her financial responsibilities." *See* ***Gerald O. v. Cindy R.***, 203 Wis. 2d 148, 156, 551 N.W.2d 855 (Ct. App. 1996).

¶21 The guardian ad litem's response is unpersuasive as it asserts, without record citation, that "the evidence presented to the court on and before the July 29, 2014 hearing establishes that [Caroline] P. had a sustained and substantial negative impact on the children. That negative impact outweighs the benefits associated with continued child support and continuing [Caroline]'s status as a

legal parent." The guardian ad litem further contends, "Shawn H. and the guardian ad litem [at the termination hearing] supported a decision to terminate [Caroline]'s parental rights, knowing very well that would mean she would no longer be required to pay child support." In addition, "Shawn H. did not testify that he needed the child support money from [Caroline]. To the contrary, his decision to support the termination provided a basis for the court to reasonably conclude that Shawn H. felt he had the financial means to properly care for his children without [Caroline]'s substantial financial contributions."

¶22 The difficulty, here, is that even if we were to conclude the circuit court sufficiently considered the applicable statutory factors in making its best interest determination, it appears it would have done so without the benefit of an evidentiary foundation in the *specific records* in these appeals. This same concern for the lack of evidentiary foundation permeates the consideration of the loss of child support on the children's standard of living, and how the loss of child support factors into the best-interest determination. It is on this basis that we must reverse.

¶23 The court, in many ways, did an admirable job in attempting to communicate with an obstreperous witness, which, the record reflects, Caroline unquestionably was. The record reflects that Caroline continually talked over the court and was nonresponsive to many of its questions, and that she used the hearing as an opportunity to berate the court system and her ex-husband for perceived past wrongs. We acknowledge the court was well acquainted with the facts of the family's case. Further complicating this particular termination hearing was its voluntary nature—no fact-finding hearing was required in the first stage of proceedings as the court instead only needed to determine whether Caroline's consent to terminate was voluntary and informed. In addition, unlike most

termination proceedings, the county department of social services was not involved. Thus, there were no mandated reports from a county department on which the court could rely in formulating an evidentiary basis.

¶24 Nevertheless, once the court was satisfied that Caroline's consent was voluntary, it was required to "decide[], *upon the evidence*, whether termination [was] warranted." ***A.B.***, 151 Wis. 2d at 319-20 (emphasis added). It could "either enter an order terminating parental rights, *if the evidence supports termination*, or dismiss the petition *if the evidence does not*." ***Id.*** at 320. (emphasis added). Although the court's history with the family gave it background knowledge to draw upon, that does not create a sufficient record on which we can now rely to examine whether the court properly exercised its discretion. In addition, simply because a parent seeks to voluntarily terminate his or her parental rights does not relieve a circuit court from making specific allusions to the standard and factors set forth in WIS. STAT. § 48.426, and applying the facts of the case to the standard and factors.[10] *See* ***Julie A.B.***, 255 Wis. 2d 170, ¶¶30-31 ("The court should explain the basis for its disposition, on the record, by

[10] The guardian ad litem asserts, "The fact that this hearing was not uncontested [sic] should allow the circuit court greater latitude in its discretion when it comes to taking evidence, as well as identifying and discussing each of the factors in WIS. STAT. § 48.426(3)." Assuming the guardian ad litem meant to characterize the hearing as "not contested" or "uncontested," and not the double negative that was transcribed, this assertion is unsupported by case law or policy considerations. The law on the termination of parental rights does not usually prescribe leniency in termination proceedings but more often reflects the gravity of such legal actions: "'[T]ermination adjudications involve the awesome authority of the State to destroy permanently all legal recognition of the parental relationship. For these reasons, 'parental termination decrees are among the most severe forms of state action.'" ***Evelyn C.R.***, 246 Wis. 2d 1, ¶20 (quoted source omitted). Such language does not signify, to this court, that relaxed application of statutory standards would be appropriate, even in the context of a termination that on its face was voluntary.

alluding specifically to the factors in WIS. STAT. § 48.426(3) and any other factors that it relies upon in reaching its decision.").

¶25 Besides Caroline's testimony, the court relied on Shawn's statements, and the report and recommendation from the guardian ad litem. The record lacks evidentiary support for the circuit court's best-interest determination and ultimate disposition decision. As a result, we conclude the circuit court did not properly exercise its discretion by proceeding to terminate Caroline's parental rights when it failed to examine the relevant facts, apply the proper standard of law, and use a demonstrated rational process to reach its decision to terminate. *See* ***Gerald O.***, 203 Wis. 2d at 152. Given this conclusion, we need not address the parties' dispute over whether Caroline's consent to terminate was voluntary and informed. *See* ***State v. Blalock***, 150 Wis. 2d 688, 703, 442 N.W.2d 514 (Ct. App. 1989) (cases should be decided on the narrowest possible grounds).

By the Court.—Orders reversed.

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