

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**April 4, 2017**

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. 2016AP588**

**Cir. Ct. No. 2014FA4481**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**IN RE THE MARRIAGE OF:**

**MAN H. WATSON,**

**PETITIONER-APPELLANT,**

**V.**

**JULIE E. WATSON,**

**RESPONDENT-RESPONDENT.**

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APPEAL from a judgment of the circuit court for Milwaukee County: MARSHALL B. MURRAY, Judge. *Affirmed.*

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

¶1 PER CURIAM. Man H. Watson, *pro se*, appeals the circuit court's judgment divorcing him from Julie E. Watson.<sup>1</sup> Man argues the circuit court misused its discretion in awarding Julie primary placement of their two young children. He contends that the circuit court: (1) failed to give adequate weight to Julie's interference with his relationship with the children; (2) improperly considered his abusive behavior toward Julie in denying him primary physical placement; and (3) should have ordered a placement schedule that would allow the children access to both parents on a regular basis. We affirm.

¶2 Man and Julie lived in Milwaukee, Wisconsin, for much of their marriage. They have two young children. Julie was the primary caretaker and works part-time from home. Man works full time as an electrical engineer and is in the Navy reserve, which takes him away from home for periods of active duty with the United States Navy. While Man was in Afghanistan on active duty, Julie left Wisconsin with the children, moving first to Florida and then to Mississippi where her parents and other family members live.

¶3 Man initiated divorce proceedings in Wisconsin. The circuit court awarded Man and Julie joint legal custody. The circuit court awarded primary physical placement to Julie in Mississippi, with six weeks of placement for Man during the summer in Milwaukee, alternate holidays, telephone or video calls with the children three times a week, and a directive that the parents accommodate one another's requests for additional visitation if either parent is visiting the town where the other lives.

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<sup>1</sup> The parties to this appeal share the same last name. For clarity's sake, we will refer to the parties by their first names.

¶4 The Wisconsin Statutes list factors the circuit court must consider when making a placement determination. *See* WIS. STAT. § 767.41(5) (2015-16).<sup>2</sup> The factors include the wishes of the child and the parents, the amount and quality of time a parent has spent with a child in the past, the child’s age, and the child’s adjustment to home, school, religion, and community. *Id.* Placement decisions are committed to the circuit court’s discretion. *Rosecky v. Schissel*, 2013 WI 66, ¶29, 349 Wis. 2d 84, 833 N.W.2d 634. We “will sustain the circuit court’s exercise of discretion if it examined the relevant facts, applied a proper standard of law, and came to a reasonable conclusion using a demonstrated and rational process.” *Id.*

¶5 Man first argues that the circuit court misused its discretion because it failed to give adequate weight to Julie’s interference with his relationship with the children. Man contends that the circuit court should have penalized Julie for moving with the children away from Wisconsin while he was away on active military duty.

¶6 WISCONSIN STAT. § 767.41(5)(am)11. provides that the circuit court shall consider “whether one party is likely to unreasonably interfere with the child’s continuing relationship with the other party” in deciding physical placement. In its oral decision, the circuit court discussed the fact that Julie left Wisconsin with the children while Man was away on military duty, and noted that Julie intentionally did so before the divorce was filed to avoid having her decision to leave with the children subject to judicial scrutiny. Julie’s unilateral move was

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<sup>2</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

seen negatively by the court, which noted that Man's arguments that Julie should not "be rewarded for leaving the state." Nevertheless, Julie's move was just one of many circumstances that the circuit court considered in making its placement decision and there is nothing in the statutes that *required* the circuit court to award primary placement to Man because Julie moved the children. The circuit court properly exercised its discretion because it considered Julie's conduct as it was required to do, even though it ultimately concluded that Julie's decision to move with the children did not outweigh other considerations that favored her for primary placement.

¶7 Man next argues that the circuit court improperly considered his abusive behavior toward Julie in denying him primary physical placement. Man contends that the circuit court should not have considered this factor because Julie admitted that he was a good father.

¶8 The circuit court was required by statute to consider evidence of domestic abuse in determining placement. *See* WIS. STAT. § 767.41(5)(am)13. The circuit court therefore properly considered Man's abusive behavior toward Julie, regardless of Julie's opinion regarding the quality of Man's parenting. Moreover, the circuit court did not *deny* Man placement based on his abusive behavior toward Julie. To the contrary, the circuit court stated that Man's abusive behavior did not rise to the level that gave the circuit court doubts about allowing Man to share placement of the children. We reject Man's argument that the circuit court denied Man primary physical placement based on his abusive behavior toward Julie.

¶9 Finally, Man contends that the circuit court failed to order a placement schedule that would allow the children access to both parents on a

regular basis. Parents should be awarded meaningful periods of physical placement. WIS. STAT. § 767.41(5)(am)8. (in making a placement determination, the court shall consider “[t]he need for regularly occurring and meaningful periods of physical placement to provide predictability and stability for the child”).

¶10 Circuit courts have wide discretion in awarding placement because the circumstances of each case are unique. The circuit court could not award equally shared placement because Julie lives in Mississippi and Man lives in Wisconsin. The circuit court’s focus, therefore, was on deciding which parent should have primary physical placement based on all of the circumstances. The circuit court considered factors that might support Man having primary placement, but concluded that Julie was the better choice because the children had adjusted to their school and community in Mississippi, and Julie had been the children’s primary caretaker. The circuit court also noted that Julie and the children had family support in Mississippi, including her parents with whom they were living. Given the physical separation between Julie’s home and Man’s home, the circuit court fashioned a placement arrangement that would allow both parents to maintain the vital strong ties they have with their children and see them as much as possible. The circuit court’s placement award was not a misuse of discretion.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2015-16).

