

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

May 20, 1999

Marilyn L. Graves  
Clerk, Court of Appeals  
of Wisconsin

**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 § 808.10 and RULE 809.62, STATS.

**No. 99-0069**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**IN RE THE MARRIAGE OF:**

**TERRI L. HEUER,**

**PETITIONER-RESPONDENT,**

**v.**

**DAVID R. HEUER,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for La Crosse County:  
MICHAEL J. MULROY, Judge. *Affirmed.*

VERGERONT, J.<sup>1</sup> David R. Heuer appeals an order signed by the family court commissioner and the circuit court judge finding him in contempt for failure to pay child support. David argues that the judge's signature on the order

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<sup>1</sup> This appeal is decided by one judge pursuant to § 752.31(2)(h), STATS.

denied his right to a review of the order and a de novo hearing before the circuit court as provided for in § 767.13(6), STATS. We disagree that David was denied any right under § 767.13(6) by the circuit court judge's signature on the order and we therefore affirm the contempt order.

David and Terri Heuer were divorced in 1987. Since that time, the parties have been in court many times regarding various child support and visitation orders. In August 1998, Terri filed a motion requesting that David be held in contempt based on his failure to comply with two previous court orders requiring certain child support payments. After a hearing on the motion before the family court commissioner,<sup>2</sup> an order was issued finding David Heuer in contempt. The order was signed by the family court commissioner on October 7, 1998. It was also signed by the circuit court judge on October 9, 1998, nunc pro tunc, and filed on that date.

On December 7, 1998, David filed with the clerk of courts a Motion for Relief from Order dated October 9, 1998. That motion requested relief from certain provisions of the October 9, 1998 order, but did not request a review of the family court commissioner's order or a de novo hearing by the circuit court under § 767.13(6), STATS. The record shows this motion was served on Terri on December 8, 1998, but reveals no further action on this motion. The next document in the record chronologically is David's notice of appeal, filed January 5, 1999. He argues that the circuit court judge's signature on the October 9, 1998 order denied him of his right to a review of the order and a de novo hearing before the circuit court judge. David does not assert in his brief that

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<sup>2</sup> A transcript of the hearing is not included in the record. We assume it was before the family court commissioner based on the subsequent October 9, 1998 order.

the circuit court ever denied a review under § 767.13(6), and, as we have indicated, the record does not provide support for that assertion.

Section 767.13(6), STATS., provides:

REVIEW OF THE DECISIONS OF THE FAMILY COURT COMMISSIONER. Upon the motion of any party any decision of the family court commissioner shall be reviewed by the judge of the branch of the court to which the case has been assigned. Upon the motion of any party any such review shall include a new hearing on the subject of the decision, order or ruling.

David does not cite any authority, nor are we aware of any, that a contempt order signed by a family court commissioner and a circuit court judge represents a circuit court's denial of a review of a family court commissioner's decision. Absent a motion to the circuit court requesting a review and de novo hearing under § 767.13(6), we cannot conclude that his rights under that statute were denied.

*By the Court.*—Order affirmed.

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

