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DISTRICT II

May 8, 2024

To:

Hon. David M. Reddy
Circuit Court Judge
Electronic Notice

Kevin Michael Fetherston
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Nathan Huiras
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2023AP1443

Nathan Huiras v. Megan McGee Norris (L.C. #2023CV522)

Before Gundrum, P.J., Neubauer and Grogan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Nathan Huiras appeals from an order dismissing the Petition for Declaratory Judgment Complaint he filed against Megan McGee Norris, the guardian ad litem (GAL) appointed in his divorce case. Huiras asserts the circuit court erred in dismissing his Complaint, and he asks us to reverse the circuit court's order and vacate money judgments entered against him. Based upon our review of the briefs and Record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

In May 2023, Huiras filed the Complaint asking the circuit court to declare that Norris “violated Petitioner’s natural common law basic human rights affirmed by both the Wisconsin and United States Constitution under the Color of State Law.” He also filed a supporting affidavit wherein he set forth criticisms about Norris’s conduct and actions as the GAL in his divorce case. He asserts that her actions while serving as the GAL were done “to enrich herself maliciously,” injure him, and “unjustly enrich herself[.]”

Norris filed a motion to dismiss the Complaint on the basis that she is entitled to absolute quasi-judicial immunity. She also asserted that Huiras’s Complaint failed to state a claim and that she was not properly served.²

The circuit court held a hearing in June 2023. It determined that Huiras’s claims against Norris were barred because Norris had absolute quasi-judicial immunity, and the circuit court entered an order dismissing his Complaint. Huiras appeals.

On appeal, Huiras concedes that GALs are afforded quasi-judicial immunity, but he asserts that such immunity applies only to a GAL’s *negligent* acts. He contends that Norris’s acts “went beyond negligence” and that she acted maliciously towards him. He then lists four specific acts by Norris he says are not covered by immunity because they are either outside the scope of her GAL duties or beyond negligence. First, he says Norris is not immune for stating her opinion about Huiras’s mental health. Second, he says she is not immune for making misrepresentations about him to the divorce court. Third, he says there is no immunity for her

² In June 2023, Norris also filed a motion seeking sanctions under WIS. STAT. §§ 802.05(3) and 895.044 on the basis that Huiras’s Complaint was frivolous. The circuit court’s decision on the sanctions motion is not a part of this appeal, and we therefore do not address Huiras’s request that this court “vacate[] all money judgments awarded in” this matter.

demanding his therapy notes. Fourth, he says he should be able to sue her because she defamed him, acted maliciously, and charged excessive fees.

Norris responds that she is entitled to absolute quasi-judicial immunity because all of Huiras's allegations relate to her actions as the GAL who was appointed to advocate for the best interests of the minor children in his divorce case. We agree.

“Whether a complaint states a claim for relief is a question of law” we review independently. *Meyer v. Laser Vision Inst., LLC*, 2006 WI App 70, ¶3, 290 Wis. 2d 764, 714 N.W.2d 223. Likewise, whether a defendant is entitled to immunity from suit also presents a question of law we review independently. *Kimps v. Hill*, 200 Wis. 2d 1, 8, 546 N.W.2d 151 (1996).

“‘[I]mmunity is a freedom from suit or liability’ conferred upon a particular defendant ‘not because of the existence of a particular set of facts or the moral justification of an act [,]’ but as a result of that defendant’s status or position.” *Paige K.B. v. Molepske*, 219 Wis. 2d 418, 424, 580 N.W.2d 289 (1998) (second alteration in original; citation omitted).

A GAL in a custody dispute is appointed pursuant to statute “to independently represent the best interests of a child.” *Id.* at 428. The GAL’s responsibility to promote the child’s best interests is the same as the circuit court’s responsibility to do so. *Id.* at 430. Accordingly, a GAL “performs functions intimately related to the judicial process and, therefore, is entitled to absolute quasi-judicial immunity.” *Id.* at 424.

Absolute quasi-judicial immunity also protects a GAL from liability for allegedly malicious acts because “‘absolute immunity’” includes circumstances “where the [quasi-judicial]

officer is charged with improper motive or malice[.]” See *Scarpaci v. Milwaukee County*, 96 Wis. 2d 663, 701, 292 N.W.2d 816 (1980). The GAL’s role requires that she “be allowed to independently consider the facts of a case and advocate the best interests of the child, free from the threat of harassment for retaliatory litigation.” *Paige K.B.*, 219 Wis. 2d at 433. “[A] number of mechanisms, aside from civil liability, exist to prevent and punish abuse, misconduct, and irresponsibility on the part of a GAL[.]” *Id.* at 434.

All of Huiras’s allegations against Norris arise from her service as the GAL in his divorce case. Each allegation involves either Norris gathering information to form her opinions or giving her opinions and recommendations to the circuit court as an advocate for the best interests of the minor children regarding the custody dispute during the divorce proceedings. Thus, she is entitled to absolute quasi-judicial immunity because she was acting as a quasi-judicial officer in Huiras’s divorce case. We also see nothing in the allegations demonstrating that Norris acted beyond the scope of her duties as the court-appointed GAL. Thus, the court did not err in dismissing Huiras’s Complaint.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals