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DISTRICT IV

August 22, 2016

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

2015AP1099

In RE: the Support or Maintenance of N. R. P.: Shaleese Modine
and Waushara County v. Nathaniel W. Piefer (L.C. # 2014FA66)

Before Kloppenburg, P.J., Lundsten and Blanchard, JJ.

Nathaniel Piefer appeals from multiple orders, some of which were interim orders, relating to birthing costs, child support, placement, and custody, as well as from one order restricting court filings by Piefer. After reviewing the record, we conclude at conference that

this case is appropriate for summary disposition. WIS. STAT. RULE 809.21 (2013-14).¹ For the reasons discussed below, we summarily affirm.

This case arises pursuant to WIS. STAT. § 767.501 and was brought by the State of Wisconsin and the minor child's mother, Shaleese Modine, through the Waushara County Child Support Agency, approximately two months after the child's birth. Modine and the State seek orders related to child support, birthing costs, health care and insurance expenses, legal custody, and physical placement. On appeal, Piefer challenges essentially every aspect of the circuit court's orders. However, despite numerous communications from this court, Piefer failed to make arrangements for the filing of the necessary transcripts.² See WIS. STAT. RULE 809.11(4). As a result, we are unable to review the parties' testimony and the court's rulings and full reasoning. Piefer is responsible for making certain that the record on appeal contains all of the necessary materials for our review. See *State Bank of Hartland v. Arndt*, 129 Wis. 2d 411, 423, 385 N.W.2d 219 (Ct. App. 1986). Because no transcripts have been filed, we presume that the circuit court properly exercised its discretion in each of its discretionary determinations. See

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

² The copy of the docket entries supplied to us by the Waushara County Clerk of Court indicates that the circuit court conducted five hearings in this matter.

Fiumefreddo v. McLean, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993).³ Nothing Piefer argues rebuts that presumption.

As Piefer correctly acknowledges, the issues related to birthing costs and child support fall within the circuit court's discretionary authority. Contrary to Piefer's argument, however, courts are also granted "wide discretion" with regard to decisions related to the child's physical placement. *Wiederholt v. Fischer*, 169 Wis. 2d 524, 530, 485 N.W.2d 442 (Ct. App. 1992). Pursuant to *Fiumefreddo*, Piefer's failure to order the transcripts requires us to apply the presumption that the court properly exercised its discretion in fashioning its orders regarding birthing costs, child support, and physical placement, and we therefore affirm those orders without further discussion.

Piefer also alleges that the circuit court erred in issuing an order restricting his court filings. The court noted that Piefer's many filings "have become unrelenting and incessant," and that his "filing habits...ha[ve] become abusive." Piefer's constitutional right to access to the courts is "neither absolute nor unconditional." *Village of Tigerton v. Minniecheske*, 211 Wis. 2d 777, 785, 565 N.W.2d 586 (Ct. App. 1997). A court is permitted to exercise its inherent authority to control its own docket and assure its ability to fairly and efficiently administer justice for all litigants before it. *Puchner v. Hepperla*, Nos. 1998AP2853/3446, unpublished slip

³ Piefer argues that he should not be held to *Fiumefreddo* because when he commenced his appeal, he was acting pro se, and he secured an attorney to represent him soon before his first brief was due. However, even were we to accept Piefer's arguments that he should be granted some leniency for having initiated the appeal pro se, pro se appellants are still required to comply with the rules of appellate procedure. See *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (proceeding pro se is not a license to ignore applicable rules of procedure). Further, Piefer states: "While principles of equity warrant the Court consider this matter absent a transcript, there is also case law supporting consideration absent a transcript." Piefer cites none.

op. ¶¶7-8 (WI App Jan. 31, 2001). This inherent authority includes placing limitations on a litigant's access to the court. *Id.*, ¶7. The circuit court's order sets forth a reasoned approach and does not impose onerous restrictions on Piefer's ability to represent his interests in this action. Further, Piefer makes no argument related to any prejudice he may have suffered as a result of the court's restrictions, or what filings he would have made to protect his interests had the court not imposed the restrictions. Thus, the court appropriately exercised its discretion, and we affirm its order.

Finally, Piefer raises an issue related to evidence that the circuit court allegedly received at the March 25, 2015, placement hearing. We reject Piefer's argument on two bases: (1) it refers to matters that do not appear in any form in the record before us on appeal, *see State ex rel. Wolf v. Town of Lisbon*, 75 Wis. 2d 152, 155-56, 248 N.W.2d 450 (1977); and (2) the decision to admit evidence is discretionary, *Kettner v. Kettner*, 2002 WI App 173, ¶14, 256 Wis. 2d 329, 649 N.W.2d 317. For these reasons, we apply the *Fiumefreddo* presumption that the court properly exercised its discretion in the absence of the transcripts.

Upon the foregoing reasons,

IT IS ORDERED that the circuit court orders are summarily affirmed pursuant to WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals