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DISTRICT IV

February 3, 2022

To:

Hon. Elliott M. Levine
Circuit Court Judge
Electronic Notice

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Melissa M. Petersen
Electronic Notice

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

2021AP22-NM

In the matter of the condition of P.L.C.:
La Crosse County v. P.L.C. (L.C. # 2020GN43)

Before Blanchard, P.J., Kloppenburg, and Graham, 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).

Attorney Melissa Petersen, appointed counsel for P.L.C., has filed a no-merit report concluding that there is no arguable basis for challenging guardianship and protective placement orders. P.L.C. was provided a copy of the report, but has not filed a response. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), and

WIS. STAT. RULE 809.32 (2019-20),¹ we conclude that there are no issues of arguable merit to pursue. We summarily affirm.

La Crosse County filed petitions for guardianship and protective placement for P.L.C. on June 25, 2020. The petitions alleged that P.L.C. had an intellectual impairment and a psychotic disorder that prevented her from being able to care for her own health and safety. The circuit court held the guardianship and protective placement hearing on August 7, 2020. At the conclusion of the hearing, the court found that there was clear and convincing evidence establishing that P.L.C. was incompetent and meeting the criteria for guardianship and protective placement. Accordingly, the circuit court entered guardianship and protective placement orders.

The no-merit report addresses whether there would be arguable merit to a challenge to the guardianship and protective placement orders based on procedural errors. Prior to the hearing, a guardian ad litem was appointed. The guardian ad litem met with P.L.C. and registered an objection to the petitions. *See* WIS. STAT. §§ 54.40(1), (4)(a), (f); 55.10(4)(b). The hearing on the petitions was held within the required time limits under WIS. STAT. §§ 54.44(1) and 55.10(1), and was private per § 54.44(5). P.L.C. appeared and was represented by counsel at the hearing, and the psychologist's report was timely provided to counsel and the circuit court. *See* WIS. STAT. §§ 54.36; 54.44(1), (4); 55.10(2), (4)(c); 55.11(3). We agree with counsel's assessment that any challenge to the orders claiming a procedural error would be wholly frivolous.

The no-merit report also addresses whether there would be arguable merit to an argument that the evidence at the hearing was insufficient to support the circuit court's findings. We agree

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

with counsel's assessment that the evidence at the hearing, including testimony by the examining psychologist and P.L.C.'s sister, was sufficient to support the court's findings of incompetence and the need for protective placement. *See* WIS. STAT. § 54.10(3)(a)1., 2., 4. (circuit court may impose a guardianship of the person based on a finding of incompetence if the petitioner proves by clear and convincing evidence that the person is at least seventeen years nine months of age; that, because of an impairment, the person is unable to effectively evaluate information and make decisions such that the person is unable to meet the essential requirements for his or her physical health and safety; and that the person's needs cannot be met less restrictively); WIS. STAT. §§ 55.08(1), 55.10(4)(d) (court may order a protective placement if the petitioner proves by clear and convincing evidence that the person has a primary need for residential care and custody; the person has been found incompetent; as a result of an incapacity, the person is so totally incapable of providing for his or her own care as to create a substantial risk of harm to that person's self or to others; and the person's disability is or is likely to become permanent). We agree with counsel's assessment that a challenge to the circuit court's findings would lack arguable merit.

Finally, the no-merit report addresses whether there would be arguable merit to a challenge to the circuit court's evidentiary rulings at the guardianship and protective placement hearing. We agree with counsel's assessment that there would be no arguable merit to a challenge to any of the circuit court's evidentiary rulings.

Upon our independent review of the record, we have found no other arguable basis for challenging the orders for guardianship and protective placement. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Melissa Petersen is relieved of any further representation of P.L.C. in this matter.

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

Sheila T. Reiff
Clerk of Court of Appeals