



OFFICE OF THE CLERK  
**WISCONSIN COURT OF APPEALS**

110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688  
Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT IV**

May 26, 2022

To:

Hon. Michael A. Haakenson  
Circuit Court Judge  
Electronic Notice

Jacki Gackstatter  
Juvenile Clerk  
Rock County Courthouse  
Electronic Notice

Thomas Brady Aquino  
Electronic Notice

Kathilynne Grotelueschen  
Electronic Notice

Lisa Marie Line  
Electronic Notice

T. S.

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

---

2021AP571-NM

In the interest of T.S., a person under the age of 18: Rock County  
Human Services Dept. v. T.S. (L.C. # 2017JC31)

Before Graham, J.

**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 Kathilynne Grotelueschen, as appointed counsel for T.S., filed a no-merit report pursuant to WIS. STAT. RULE 809.32 (2019-20).<sup>1</sup> Counsel provided T.S. with a copy of the report, and counsel and this court both advised T.S. of the right to file a response. T.S. has not responded. I conclude that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. After an independent review of the record, I conclude that there is no arguable merit to any issue that could be raised on appeal.

---

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

This appeal is from an order entered on October 5, 2020, changing placement of T.S., who was at that time under a dispositional order as a child in need of protection and services. The existing placement was with relatives in Virginia. The notice of change of placement filed on October 1, 2020, that led to the October 5 change order stated that a change was necessary because Virginia had revoked the foster home certification and license of the placement home, and that T.S. must be returned to Wisconsin immediately under the Interstate Compact on the Placement of Children (ICPC).

The circuit court held a hearing on October 5, 2020. An employee of the state department of children and families testified, and the court heard argument. It concluded that T.S. must be returned to Wisconsin because Virginia had revoked the placement's license and certification and no alternatives were available.

It is not clear that the statutorily required notice was provided to T.S. The October 1 notice should have been provided to the child. WIS. STAT. § 48.357(1)(am)1.a. At the hearing, counsel for the county stated that the notice of change of placement had been provided to one of the placement relatives, but counsel did not say anything about whether or how notice was provided to T.S. However, T.S. and counsel for T.S. both appeared by video during the hearing without raising an objection about lack of notice. Therefore, it does not appear that there is an issue with arguable merit that could be raised regarding notice.

The court's analysis in support of the change of placement was based on implicit findings that Virginia had informed Wisconsin that it would no longer support placement in Virginia and had requested that the child be returned to Wisconsin. The county's argument to that effect was

based in part on two “transmittal memos” from Virginia that the county filed in circuit court with and shortly after the notice of change of placement, and before the hearing.

These documents were not entered into evidence at the hearing, and therefore it might be argued that they could not properly be used as support for the court’s findings. However, there was also other evidence to support those findings, as the court heard testimony from the department of children and families employee stating that Virginia had rescinded the approval for the relative placement and had asked for immediate removal of T.S. to Wisconsin.

Furthermore, it appears that counsel for T.S. did not dispute that Virginia had so informed Wisconsin. She acknowledged that “the issue with the licensing is a bit of a problem,” and she stated, “I don’t know that ... absent them withdrawing the request, I’d have a basis to argue that we can legally keep [T.S.] there” in Virginia. Based on this record, I conclude that it would be frivolous to argue that the circuit court’s findings that Virginia had determined the placement was no longer suitable and asked for T.S. to be returned were not supported by sufficient evidence.

The court also relied on a finding that no alternative placement was available, based in part on the expressed desire of T.S. to remain with the current placement relatives and the announced intent of the relatives to move to Alabama ten days after this hearing. There is no basis to argue that this finding was clearly erroneous, in light of information provided by T.S. and one of the relatives at the hearing.

Based on these findings, the court concluded that the interstate compact left Wisconsin with little legal choice other than to change placement of T.S. back to Wisconsin. To reach that conclusion, the court relied on a compact rule, Regulation No. 2.10(b). Courts are to take

judicial notice of these rules, and they are binding in the compact states. WIS. STAT.

§ 48.99(11)(d) and (12)(a)3. The compact rule, Regulation No. 2.10(b) provides:

Request to return child to sending state after receiving state ICPC had previously approved placement: Following approval and placement of the child, if the receiving state Compact Administrator determines that the placement no longer meets the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development, then the receiving state Compact Administrator may request that the sending state arrange for the return of the child as soon as possible or propose an alternative placement in the receiving state as provided in Article V(a) of the ICPC. That alternative placement resource must be approved by the receiving state before placement is made. Return of the child shall occur within five (5) working days from the date of notice for removal unless otherwise agreed upon between the sending and receiving state ICPC offices.

The receiving state request for removal may be withdrawn if the sending state arranges services to resolve the reason for the requested removal and the receiving and the sending state Compact Administrators mutually agree to the plan.

Interstate Compact on the Placement of Children (October 2, 2011), [https://aphsa.org/OE/AAICPC/ICPC\\_Regulations.aspx](https://aphsa.org/OE/AAICPC/ICPC_Regulations.aspx).

This rule clearly states that the child shall be returned when the receiving state has determined that the placement is no longer appropriate, and within five working days after such a request is made by the receiving state. Based on the information available in this record, it would be frivolous to argue that this rule did not require a change of placement back to Wisconsin.

My review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the order changing placement is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Grotelueschen is relieved of further representation of T.S. in this matter. *See* WIS. STAT. RULE 809.32(3).

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

---

*Sheila T. Reiff*  
*Clerk of Court of Appeals*