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**DISTRICT IV**

September 1, 2022

To:

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Circuit Court Judge  
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S. S.

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

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2021AP1181-NM

In the matter of the condition of S.S.: Juneau County Department  
of Human Services v. S.S. (L.C. # 2009GN24)

Before Nashold, J.<sup>1</sup>

**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).**

S.S. appeals the circuit court's order continuing his protective placement. Attorney Frederick Bechtold, appointed counsel for S.S., has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 seeking to withdraw as appellate counsel. S.S. was sent a copy of the report

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(d) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

and has not filed a response. Based upon the report and an independent review of record as mandated by *Anders v. California*, 386 U.S. 738 (1967), I conclude that there is no arguable merit to any issue that could be raised on appeal. Accordingly, I affirm the circuit court's order.

In 2009, S.S. became the subject of a guardianship and protective placement after being found to have a degenerative brain disorder. The circuit court may order protective placement for an individual who meets all of the following standards:

(a) The individual has a primary need for residential care and custody.

(b) The individual is a minor who is not alleged to have a developmental disability and on whose behalf a petition for guardianship has been submitted, or is an adult who has been determined to be incompetent by a circuit court.

(c) As a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities, the individual is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious harm to himself or herself or others....

(d) The individual has a disability that is permanent or likely to be permanent.

WIS. STAT. § 55.08(1).

S.S. remained in protective placement upon subsequent annual reviews. In 2020, as part of an annual review, the circuit court appointed a guardian ad litem for S.S., and the guardian ad litem requested a due process hearing on S.S.'s behalf. *See* WIS. STAT. § 55.18(2). The circuit court ordered an independent evaluation. *See* § 55.18(3)(b). The evaluating psychologist submitted a report and testified that S.S. remained incompetent and continued to meet the standards for protective placement. The psychologist testified that S.S. had been diagnosed with a major vascular neurocognitive disorder and schizoaffective disorder; that S.S. continued to

have a primary need for residential care and custody due to his illness; that S.S. did not have the cognitive ability, insight, or functional skills necessary for independent or semi-independent living; that S.S. was so incapable of providing for his own care and custody as to create a substantial risk of serious harm to himself; and that the least restrictive environment for S.S. was an adult family home like the home in which he was already living. Based on the psychologist's testimony, the circuit court made factual findings that S.S. met the required standards and continued S.S.'s protective placement.

The no-merit report first addresses whether the evidence was sufficient to support the circuit court's factual findings and decision to continue S.S.'s protective placement. I agree with the report's conclusion that there is no arguable merit to this issue. The evaluating psychologist's testimony was sufficient to show by clear and convincing evidence that S.S. continued to meet the criteria for protective placement. See *K.N.K. v. Buhler*, 139 Wis. 2d 190, 197, 407 N.W.2d 281 (Ct. App. 1987) (“[The] prerequisites to protective placement must be shown by clear and convincing evidence.”). S.S. expressed a desire to stay with his sister, but the evaluating psychologist testified that there was no information to show that was a viable option and that it was instead “wishful thinking” on S.S.'s part.

The no-merit report also addresses whether S.S. could claim that the circuit court erred by conducting his due process hearing by Zoom videoconference or by denying his request that trial counsel withdraw so that he could represent himself. This court is satisfied that the report properly analyzes these issues as having no arguable merit.

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

Therefore,

IT IS ORDERED that the circuit court's order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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

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