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DISTRICT I

December 28, 2022

To:

Hon. Brett R. Blomme
Circuit Court Judge
Electronic Notice

James R. Donohoo
Electronic Notice

Tammy Kruczynski
Juvenile Clerk
Milwaukee County Courthouse
Electronic Notice

Courtney L.A. Roelandts
Electronic Notice

M.W.

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

2021AP1017

In the matter of the grandparental visitation of C.C.: V.R. v. M.W.
(L.C. # 2020JG86)

Before Brash, C.J., Dugan and White, 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).

V.R. appeals the order denying her petition for grandparent visitation. 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(1) (2019-20).¹ We affirm.

C.C. was removed from the care of his mother, J.C., and became the subject of a petition for protection or services. C.C.'s father is unknown. J.C. subsequently passed away and legal guardianship was transferred to C.C.'s maternal uncle, M.W.

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

V.R.—the mother of both M.W. and J.C.—filed a petition for grandparent visitation. Both M.W. and the guardian *ad litem* objected to V.R.’s petition. The circuit court denied V.R.’s petition and granted the guardian *ad litem*’s motion to dismiss. The circuit court subsequently granted V.R.’s motion for reconsideration, ordered the parties to submit proposed findings of fact and conclusions of law, and ultimately issued an order affirming its earlier decision. V.R. then sought reconsideration of the circuit court’s decision denying her motion for reconsideration. The circuit court denied V.R.’s motion, and this appeal follows.

V.R. contends that the circuit court erroneously exercised its discretion when it denied her petition for grandparent visitation. She additionally argues that the circuit court erred when it determined that she was not a credible witness.

This case concerns grandparent visitation under WIS. STAT. § 54.56(2) (2017-18),² which provided in relevant part:

If one or both parents of a minor are deceased and the minor is in the custody of the surviving parent or any other person, a grandparent or stepparent of the minor may petition for visitation privileges with respect to the minor [T]he court may grant reasonable visitation privileges to the grandparent or stepparent ... if the court determines that visitation is in the best interests of the minor.

The assessment of a child’s best interests depends on firsthand observation and experience with the persons involved and, therefore, it is within the circuit court’s discretion. *F.R. v. T.B.*, 225 Wis. 2d 628, 637, 593 N.W.2d 840 (Ct. App. 1999); *see also Martin L. v. Julie R. L.*, 2007 WI App 37, ¶4, 299 Wis. 2d 768, 731 N.W.2d 288 (“The decision whether to

² The statute has since been renumbered and amended as WIS. STAT. § 48.9795(12). *See* 2019 Wis. Act 109, § 32 (eff. Aug. 1, 2020).

grant or deny visitation is within the circuit court's discretion.”). “We will affirm a circuit court's discretionary determination so long as it examines the relevant facts, applies the proper legal standard, and uses a demonstrated rational process to reach a conclusion that a reasonable judge could reach.” See *Martin L.*, 299 Wis. 2d 768, ¶4.

Here, the circuit court explained that the dysfunctionality and hostility found in this family was of great consequence and import in making its ultimate determination. The circuit court found that V.R. was estranged from her parents and that her relationship with M.W. had further deteriorated after M.W. moved in with his grandparents. The circuit court characterized messages sent between V.R., M.W., and V.R.'s father as “negative, hostile, provocative, and hate-filled.” Additionally, the court found that M.W. was a credible witness who has a very strained relationship with V.R. and who does not believe that C.C. should have a relationship with V.R.

V.R. argues that the circuit court misunderstood and misapplied grandparent visitation law because it was focused on the relationship between mother and son rather than the propriety of grandparent visitation. In actuality, the record reflects that the circuit court considered the hostility and dysfunctionality between C.C.'s primary caregiver, M.W., and V.R., and found that forcing a relationship between them only served to place C.C. squarely in the middle of a situation ripe for further dysfunction and hostility, which was not in C.C.'s best interests. C.C.'s best interests were properly at the forefront of the circuit court's determination.

V.R. additionally challenges the circuit court's credibility determination. However, because the circuit court is in the best position to observe witness demeanor and gauge the persuasiveness of testimony, it is the “ultimate arbiter” for credibility determinations when

acting as a fact finder, and we will defer to its resolution of discrepancies or disputes in the testimony and its determinations of what weight to give to particular testimony. *Johnson v. Merta*, 95 Wis. 2d 141, 151-52, 289 N.W.2d 813 (1980) (citation omitted). Having reviewed the record, we conclude that the circuit court properly exercised its discretion when it denied V.R.’s petition for grandparent visitation after considering the relevant facts and the proper legal standard.

Therefore,

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

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

Sheila T. Reiff
Clerk of Court of Appeals