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DISTRICT IV

May 4, 2023

To:

Hon. Raymond S. Huber
Circuit Court Judge
Electronic Notice

Angela Dahle
Register in Probate
Waupaca County Courthouse
Electronic Notice

Kelsey Jarecki Morin Loshaw
Electronic Notice

Diane L. Meulemans
Electronic Notice

M. T. S.

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

2022AP23-NM

Waupaca County DHHS v. M.T.S. (L.C.# 2021GN17)

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 Kelsey Loshaw, appointed counsel for M.T.S., has filed a no-merit report concluding that there is no arguably meritorious basis for challenging guardianship and protective placement orders. M.T.S. was provided a copy of the report and 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 (2021-22),¹ we conclude that there are no issues of arguable merit to pursue. We summarily affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

The Waupaca County Department of Health and Human Services filed petitions for protective placement and guardianship of the person and estate for M.T.S. The Department alleged that M.T.S. was suffering from dementia, lacked insight into her condition, and was in need of care and twenty-four-hour supervision to maintain her safety. The circuit court held a guardianship and protective placement hearing. The witnesses included a sheriff's deputy, a county social worker, a psychologist who examined M.T.S., M.T.S., and M.T.S.'s husband. Based on the evidence at the hearing, the court found that M.T.S. was incompetent as the result of a degenerative brain disorder and that M.T.S. met the criteria for protective placement and guardianship of the person and estate. M.T.S. was placed in a community-based residential facility.

The no-merit report addresses whether there would be arguable merit to challenging the sufficiency of the evidence to support the circuit court's findings. The criteria for protective placement and guardianship must be established by clear and convincing evidence. *Walworth Cnty. v. Therese B.*, 2003 WI App 223, ¶13, 267 Wis. 2d 310, 671 N.W.2d 377. We agree with counsel's assessment that there is no arguable merit to this issue. The evidence was sufficient to support the court's findings for each of the applicable statutory criteria. See WIS. STAT. §§ 54.10(3)(a), 55.08(1), and 55.10(4)(d); *Therese B.*, 267 Wis. 2d 310, ¶13. The no-merit report sets forth the applicable criteria and satisfactorily explains why the evidence was sufficient as to each. We note that there was also evidence to support the court's finding that a community-based residential facility was the least restrictive placement consistent with M.T.S.'s needs.

The no-merit report does not address the statutory deadlines for protective placement proceedings and guardianship proceedings. However, based on our independent review of the record, we conclude that there is no issue of arguable merit with respect to deadlines.

Our review of the record discloses no other arguably meritorious issues for appeal. 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 circuit court's orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Kelsey Loshaw is relieved of any further representation of M.T.S. in this matter.

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

*Sheila T. Reiff
Clerk of Court of Appeals*