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DISTRICT II/IV

April 4, 2013

To:

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

2011AP2685

In re the order for Guardian ad Litem fees in, In re the Paternity of Abigail R. Hansen: Ryan J. Baggott v. Susan Herro, Guardian ad Litem (L.C. # 2007PA237)

Before Lundsten, P.J., Higginbotham and Blanchard, JJ.

Ryan Baggott appeals a contempt order that required him to make ongoing purge payments of \$200 a month until he paid off a balance of \$1590 still due on guardian ad litem (GAL) fees. Baggott challenges the amount of his balance. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Baggott does not dispute that he was obligated to pay half of the GAL's fees in this paternity action, and that he fell behind in payments. In June 2009, the circuit court issued an order setting up a repayment plan of \$200 per month. The order did not specify the outstanding amount, but was based upon an affidavit from the GAL stating that there was a balance of \$1,857.50 remaining from her initial appointment, plus another \$1170 incurred during a second appointment relating to post-paternity matters. Baggott sent the court a letter stating that he did not dispute the fees from the GAL's first appointment, but that he challenged the fees from the second appointment on the grounds that the GAL had failed to act in the child's best interests and had unreasonably increased the length and complexity of the case, running up her bill. Because we do not have a transcript of the hearing, we cannot determine whether or how the circuit court resolved Baggott's challenge to the GAL's fees from the second appointment, but the GAL informs us that Baggott filed an ethics complaint against her based on similar allegations that was determined to be unsubstantiated.

In September 2010, the circuit court found Baggott in contempt for failing to comply with the payment plan. The court withheld sanctions, and issued an order providing that Baggott could purge his contempt by making the required monthly payments of \$200 for twelve consecutive months. Again, the written order did not specify how much was still owed and we have not been provided with a transcript of the relevant hearing. We note, however, that the GAL's request for a hearing was based upon allegations that Baggott had made \$935 in payments toward the prior balance of \$3027 and another \$1822 in fees had been incurred, resulting in a balance of \$3914. Baggott's response again raised objections on the grounds that the GAL had not represented the best interests of the child.

Baggott proceeded to make twelve consecutive payments of \$200, but then claimed that he had satisfied his obligation in full. The GAL filed another motion, this time alleging that the remaining balance was \$1,589.50. Baggott challenged the GAL's request on two grounds: that the contempt order had required him to make only twelve more payments, and that the itemized bills presented by the GAL did not support her claimed balance. The circuit court rejected both arguments and issued the order that is the subject of this appeal, ruling that Baggott had waived any right to challenge the amount owed, was again in contempt, and could again purge his contempt by continuing to pay \$200 a month until the balance was paid in full.

On this appeal, Baggott claims that the circuit court erroneously exercised its discretion in issuing the second contempt order by: (1) failing to acknowledge that Baggott had made prior objections to the GAL's fees; (2) failing to recognize that he could not have challenged the most recently incurred fees in prior proceedings; and (3) ignoring his own exhibit showing what he believed to be his outstanding balance. None of these arguments is persuasive.

First, as far as we can determine from the record before us, Baggott's objections to the GAL's fees prior to the issuance of the payment plan order and first contempt order were based on his assessment of the GAL's job performance, not a dispute about how many hours she had worked. To the extent that he now claims that he did not have a sufficiently itemized billing to be able to challenge the GAL's hours in prior proceedings, we agree with the circuit court that the proper time to seek such an accounting was in the prior proceedings. Therefore, it is now too late to challenge the \$1,857.50 balance from the first appointment, the \$1170 incurred on the second appointment prior to the payment plan order, and the \$1822 incurred between the payment plan order and the first contempt order. While we do agree that Baggott could not have been expected to have already challenged any additional fees incurred between the time of the

first and second contempt orders, the record before us does not show that any additional fees were claimed for that time period. We further note that Baggott himself fails to acknowledge that the billing statements that he says do not add up to the total amount owed do not appear to include any of the statements from the GAL's initial appointment.

IT IS ORDERED that the contempt order is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals