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DISTRICT III

April 30, 2013

To:

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

2013AP38-NM

Brown County Department of Human Services v. Anna C.
(L. C. #2012GN8)

Before Hoover, P.J., Mangerson, J., and Thomas Cane, Reserve Judge.

Counsel for Anna C. has filed a no-merit report concluding there is no basis to challenge orders for guardianship and protective placement. Anna has responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised and summarily affirm.

Brown County Adult Protective Services filed petitions seeking guardianship and protective placement. An Examining Physician's/Psychologist's Report was filed and the circuit court appointed Lutheran Social Services as temporary guardian of the person and estate.

A hearing concerning permanent guardianship and protective placement was scheduled for March 15, 2012. Kevin Miller, PhD., filed an Examining Psychologist's Report on March 2. A Report of Guardian ad Litem was filed on March 7, concluding Lutheran Social Services should be appointed permanent guardian of the person and estate, and also that Anna was in need of protective placement.

Following the hearing, the circuit court found that Anna was a "quite intelligent and interesting person for her stated age of 92 years old." However, through no fault of her own she suffered from a degenerative brain disorder, early stage Alzheimer's-type dementia, which was likely to be permanent. Both her executive and memory functions were impaired such that she was no longer able to receive and evaluate information, or make or communicate decisions, so as to meet essential requirements for her physical health and safety, and to prevent abuse, exploitation, or neglect. *See* WIS. STAT. § 54.10(3).¹

The court also found that Anna had physical limitations and would benefit from medication management in a supervised living arrangement. Anna was unable to ambulate on her own due to an inability to bear weight on her right leg. She also required assistance anytime she transferred from her wheelchair. The court also noted a recent history of hospitalizations. She had a need for residential care because she was no longer competent to care for herself as to

¹ References to Wisconsin Statutes are to the 2011-12 version.

create a serious risk of harm to herself or others. *See County of Dunn v. Goldie H.*, 2001 WI 102, ¶¶23, 245 Wis. 2d 538, 629 N.W.2d 189.

The circuit court's findings were supported by the testimony of Dr. Kevin Miller, the testimony of a social worker for Brown County Protective Services, and the recommendations of the GAL. The court applied proper statutory factors, and sufficient evidence supported the court's findings regarding Lutheran Social Services as permanent guardian and protective placement in a community based residential facility.

The no-merit report also addresses issues concerning jury trial and judicial substitution. The testimony, reports, as well as the recommendations of the GAL do not support any argument that a jury or different judge might have come to an alternative conclusion.

Our independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Gina Bosben is relieved of further representing Anna C.

Diane M. Fremgen
Clerk of Court of Appeals