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CLERK OF WISCONSIN

SUPREME COURT

June 11, 2024

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
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You are hereby notified that the Court, by its Clerk and Commissioners, has entered the following order:

No. 2024AP325-W

K.H. v. Circuit Court for Manitowoc County, L.C.#2019JC133

On February 21, 2024, K.H., through her counsel, Attorney Timothy A. Provis, electronically filed, as a single 65-page document: a Petition for Supervisory Writ and Motion for Emergency Stay; a Memorandum Supporting Petition for Supervisory Writ; and supporting exhibits. Attorney Provis did not file a motion asking that any of the filings be filed under seal, nor did he redact any confidential information. The supporting exhibits were improperly included as part of the public filing submitted by Attorney Provis, as they contained confidential information concerning juveniles who were the subjects of Wis. Stat. ch. 48 Children in Need of Protective

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Services (CHIPS) proceedings.¹ Accordingly, this court placed the entire filing under temporary seal. On February 22, 2024, this court denied the writ petition and the accompanying motion, and directed Attorney Provis to refile K.H.'s original pleadings to remove the confidential information. Attorney Provis failed to do so and failed to comply with subsequent orders directing him to do so. Therefore on May 28, 2024, this court ordered:

Attorney Timothy Provis shall re-file K.H.'s February 21, 2024 filing in accordance with the following directions: (1) a copy of the Petition for Supervisory Writ and Motion for Emergency Stay and Memorandum Supporting Petition for Supervisory Writ shall be filed as a single document that shall be placed on the court's public docket; and (2) a copy of the exhibits that were attached to K.H.'s February 21, 2024 filing shall be filed as a separate document under seal.

On June 3, 2023, Attorney Provis attempted to file: (1) a document containing another full copy of K.H.'s February 21, 2024 filing (all 65 pages), including the exhibits containing confidential information, as a public document, yet with all pages marked as "sealed" via watermark; (2) a second document containing only a copy of the exhibits attached to the original pleadings, marked "temporarily sealed" under the caption "Response to Court Order Dated May 28, 2024"; and (3) a motion to seal the exhibits.

This attempted filing does not comply with the terms of this court's May 28, 2024 order. To be clear, the intent of the May 28, 2024 was for Attorney Provis to submit two documents: (1) one document containing only the original pleadings that did not contain any confidential information protected by law (i.e., the Petition for Supervisory Writ and Motion for Emergency Stay, along with the Memorandum Supporting Petition for Supervisory Writ—pages 1-10 of the original February 21, 2024 filing), which would be placed on the public docket; and (2) a separate document consisting of only the exhibits containing confidential information (i.e., the supporting exhibits), which was to be submitted under seal by Attorney Provis and maintained by the clerk's office under seal. Attorney Provis' June 3, 2023 filing fails to comply with the court's order for two reasons. First, the pleadings he filed still include the exhibits containing confidential information protected by law. This defeats the purpose of the separate filing, which is to remove the confidential information from the public docket, but keep public the actual pleadings. Second, all of the original pleadings are marked sealed. But pursuant to the court's May 28, 2024 order, the only document that should be designated as sealed is the second document containing the supporting exhibits.

Therefore,

IT IS ORDERED that the motion to seal filed by Attorney Provis on June 3, 2024 is granted, and the clerk of this court shall accept for filing the document submitted on June 3, 2024

¹ See Wis. Stat. § 48.396(2)(a); Wis. Stat. § (Rule) 809.801(14)(a)-(b); State v. Bellows, 218 Wis. 2d 614, 628-631, 582 N.W.2d 53 (Ct. App. 1998).

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captioned “Response to Court Order Dated May 28, 2024,” which contains the supporting exhibits. No further motion to seal these exhibits may be filed; and

IT IS FURTHER ORDERED that the clerk of this court shall reject for filing the remainder of the documents Attorney Provis submitted on June 3, 2024; and

IT IS FURTHER ORDERED that within seven calendar days of the date of this order, Attorney Provis shall submit for filing one document containing the portions of the original February 21, 2024 pleadings that did not contain any confidential information (i.e., the Petition for Supervisory Writ and Motion for Emergency Stay, along with the Memorandum Supporting Petition for Supervisory Writ—pages 1-10 of the original February 21, 2024 filing). The pages of this document shall not contain any watermarks, and this document shall be not submitted under seal. This document also shall not contain any portion of any of the supporting exhibits; and

IT IS FURTHER ORDERED that, in light of his repeated failures to comply with the rules of appellate procedure, the statutes governing confidential information, and the multiple prior orders of this court, failure to timely comply with this order may result in the imposition of sanctions on Attorney Timothy Provis or other appropriate action.

Samuel A. Christensen
Clerk of Supreme Court