

FILED
01-08-2024
CLERK OF WISCONSIN
COURT OF APPEALS

Nos. 23AP1401, 23AP1805

IN THE

Wisconsin Court of Appeals

DISTRICT IV

IN RE THE MARRIAGE OF ANGELA MARIE YADAGIRI AND NARENDRA YADAGIR; AND IN RE THE SUPPORT AND MAINTENANCE OF R.K.Y.:

VISHNU CHAITANYA ALAMURI,
Appellant,

v.

ANGELA MARIE YADAGIRI AND NARENDRA YADAGIRI,
Respondents.

On Appeal from the Dane County Circuit Court,
The Honorable Stephen E. Ehlke, Presiding, Case No. 22FA1824,
The Honorable Jacob B. Frost, Presiding, Case No. 19FA846.

JOINT RESPONDENTS' BRIEF

JON C. MANZO, 1023987
JON C. MANZO
LAW OFFICE
6808 University Avenue
Suite 125
Middleton, WI 53562
608.831.2529
hansonmanzo@gmail.com

*Counsel for Angela Marie
Yadagiri*

JOSEPH S. DIEDRICH, 1097562
HUSCH BLACKWELL LLP
33 E. Main Street, Suite 300
Madison, WI 53703
608.255.4440
joseph.diedrich
@huschblackwell.com

Counsel for Narendra Yadagiri

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	3
STATEMENT OF THE ISSUE	5
STATEMENT ON ORAL ARGUMENT AND PUBLICATION	5
STATEMENT OF THE CASE	5
STANDARD OF REVIEW	8
ARGUMENT	9
I. The circuit court correctly denied intervention.	9
A. Alamuri did not timely move to intervene.	10
B. Alamuri lacks an interest sufficient to intervene.	12
C. Because Alamuri lacks an interest, neither protection nor adequacy matters.	16
D. The circuit court properly exercised its discretion to deny permissive intervention.	17
II. Denial of the motion to reopen is not for this Court to consider.	19
CONCLUSION	20
FORM AND LENGTH CERTIFICATION	21

TABLE OF AUTHORITIES

	<u>Page(s)</u>
 <u>Cases</u>	
<i>Armada Broad., Inc. v. Stirn</i> , 183 Wis. 2d 463, 516 N.W.2d 357 (1994)	10
<i>Ashker v. Aurora Med. Grp., Inc.</i> , 2013 WI App 143, 352 Wis. 2d 193, 841 N.W.2d 297	19
<i>Boyle v. Boyle</i> , 194 W. Va. 124, 459 S.E.2d 401 (1995)	15
<i>C.L. v. Edson</i> , 140 Wis. 2d 168, 409 N.W.2d 417 (Ct. App. 1987).....	12
<i>Helgeland v. Wis. Municipalities</i> , 2008 WI 9, 307 Wis. 2d 1, 745 N.W.2d 1	17
<i>Hendrick v. Hendrick</i> , 2009 WI App 33, 316 Wis. 2d 479, 765 N.W.2d 865	passim
<i>Hennessy v. Wells Fargo Bank, N.A.</i> , 2020 WI App 64, 394 Wis. 2d 357, 950 N.W.2d 877	17, 18
<i>Hoppmann v. Reid</i> , 86 Wis. 2d 531, 273 N.W.2d 298 (1979)	10, 19
<i>In re Paternity of M.T.H.</i> , 140 Wis. 2d 843, 412 N.W.2d 164 (Ct. App. 1987).....	20
<i>Joshua K. v. Nancy K. (K.)</i> , 201 Wis. 2d 655, 549 N.W.2d 494 (Ct. App. 1996).....	16
<i>Kornitz v. Commonwealth Land Title Ins. Co.</i> , 81 Wis. 2d 322, 260 N.W.2d 680 (1978)	10, 19

<i>Lodge 78 of Int’l Ass’n of Machinists, AFL-CIO v. Nickel</i> , 20 Wis. 2d 42, 121 N.W.2d 297 (1963)	14
<i>Olivarez v. Unitrin Prop. & Cas. Ins. Co.</i> , 2006 WI App 189, 296 Wis. 2d 337, 723 N.W.2d 131	11, 12, 15
<i>Sewerage Comm’n of City of Milwaukee v. State Dep’t of Nat., Res.</i> , 104 Wis. 2d 182, 311 N.W.2d 677 (Ct. App. 1981).....	10, 11, 12
<i>State ex rel. Flynn v. Kemper Ctr., Inc.</i> , 2019 WI App 6, 385 Wis. 2d 811, 924 N.W.2d 218.....	19
<i>State ex rel. Jones v. Gerhardstein</i> , 135 Wis. 2d 161, 400 N.W.2d 1 (Ct. App. 1986).....	12
<i>State v. Ramuta</i> , 2003 WI App 80, 261 Wis. 2d 784, 661 N.W.2d 483.....	19
<i>United States v. Associated Milk Producers, Inc.</i> , 534 F.2d 113 (8th Cir. 1976).....	12

Statutes

Wis. Stat. § 767.407	16
Wis. Stat. § 803.09	passim
Wis. Stat. § 822.22	20
Wis. Stat. § 891.41	6, 7, 8

STATEMENT OF THE ISSUE

Is a biological father entitled to intervene, after judgment, in a divorce or support proceeding to prevent the divorcing wife (and child's mother) from being able to pursue child support from him?

The circuit court answered “no.”

This Court should affirm.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Oral argument is not necessary. The parties' written briefs will adequately apprise the Court of the issues, law, and facts necessary to decide the case.

The opinion need not be published. This case calls for the straightforward application of well-settled rules of law.

STATEMENT OF THE CASE

A. Respondents Angela Yadagiri and Narendra Yadagiri were once married but are now divorced. App.144–59; 22R.47. In the early months of their marriage, Angela gave birth to RKY. App.238–39; 22R.58:1–2. Based on Wisconsin's statutory marital presumption, Narendra was deemed RKY's legal father. *Id.*; see Wis. Stat. § 891.41. In a 2019 support action (19FA846, Judge Frost), Angela and Narendra stipulated to \$0 in support. App.238–39; 22R.58:1–2.

Angela and Narendra spent years not living or acting married. *Id.* Narendra did not establish a parent relationship with RKY. *Id.* That is because—as everyone knew and genetic testing confirmed—Narendra was not RKY's biological father. *Id.*

In 2022, Angela and Narendra filed for legal separation, which became a divorce (22FA1824, Judge Ehlke). *Id.* In that action, Judge Ehlke determined that the marital

presumption was rebutted and Narendra was not RKY's legal father. *Id.*; App.142–43; 22R.31. A guardian ad litem (GAL) supported this finding based on a thorough investigation in due course. App.239; 22R.58:2; App.142–43; 22R.31; App.140–41; 22R.29. A corresponding order was entered on March 13, 2023. App.142–43; 22R.31. A final divorce judgment was entered on May 8, 2023. App.144–59; 22R.47.

Based on the presumption determination in the divorce action, Judge Frost granted relief in the support action (19FA846). App.239; 22R.58:2. In doing so, he clarified in that action that the marital presumption was rebutted, that Narendra was not RKY's legal father, and that the support judgment would have no effect going forward. *Id.*; App.14–15; 19R.60. A corresponding order granting relief from judgment was entered on April 21, 2023. *Id.*

Then, on June 28, 2023, Appellant Vishnu Chaitanya Alamuri moved to intervene in and reopen both the 2019 support action (19FA846) and the 2022 divorce action (22FA1824). That motion came almost two months after the final divorce judgment; over two months after the order granting relief from the support judgment; over three months after the presumption determination in the divorce action; several months after the legal separation (later, divorce) action began; and several years after the support action began. All this, despite Alamuri knowing all along that “Angela filed a paternity case naming [him]” *in 2019*. Br.3.

Why did Alamuri move to intervene? Angela is currently seeking child support from him in North Carolina state court, where he and RKY both lived. App.239–41; 22R.58:2–4; App.14–15; 19R.60; App.243–44; 22R.74:2–3. *See generally* 22RR.1, 7, 16, 17, 18, 20. The North Carolina court has acknowledged that the Wisconsin marital presumption has been overcome and that Narendra is not RKY's father. *See*

Establishment of Paternity and Continuance Order, *Yadagiri v. Vishnu*, No. 23CVD443-910 (Wake Cnty., N.C. June 13, 2023), <https://bit.ly/3ROZndX> (scroll to Index #5); *see also* App.100–01; 19R.80:4; App.140–41; 22R.29. Alamuri, who does not dispute that Narendra *is not* RKY’s biological father, seeks to intervene and reopen the Wisconsin cases to *preserve* the marital presumption. App.239–41; 22R.58:2–4. He wants Narendra to remain RKY’s *legal* father so that Angela cannot “pursue child support for RKY from [Alamuri]” in North Carolina. *Id.*

The circuit court below (in both actions) denied Alamuri’s motions to intervene. App.239, 241; 22R.58:2, 4. Among other things, the court noted how Alamuri “came” “along” “[a]fter all the above [divorce and support proceedings] concluded.” App.239; 22R.58:2. The court observed that Alamuri “offer[ed] no law to support his position that the biological father of a child is entitled to intervene in a divorce action to argue against overcoming the marital presumption.” App.240; 22R.58:3. “There is no legal right of a biological parent to ask a court to protect him from legal responsibility for his child.” *Id.* Permitting Alamuri to intervene, the court reasoned, “would render a gross injustice.” *Id.* The court also recognized that Alamuri’s interest was opposite from a biological father who seeks to intervene *to rebut* the marital presumption. App.240–41; 22R.58:3–4. And the court noted that RKY “no longer lives in Wisconsin and has not for some time.” App.241; 22R.58:4.

Having denied Alamuri’s motions to intervene, the circuit court denied his motions to reopen as moot. *Id.*

B. The vast majority of other assertions in Alamuri’s statement of the case are beside the point. Many relate solely to the merits but not to intervention, the only issue properly

on appeal. Others are purely speculative or demonstrably wrong.

- Alamuri asserts that “[t]he actions of Angela and Narendra, while completing the legal paperwork, effectively terminated any other man’s parental rights or responsibilities for RKY.” Br.1. Although irrelevant, Alamuri cites no factual or legal support for his assertion.
- On multiple occasions, without citation to any record evidence, Alamuri impugns GAL Richter and speculates about her motivations and findings. Br.14–16, 38–39. The speculation appears to be fueled entirely by the length of time it took for GAL Richter to complete her investigation. Although local rules set outer limits on the timeline for GAL investigations, promptness should be celebrated. GAL Richter’s report reflects a thorough and thoughtful investigation. App.239; 22R.58:2; App.142–43; 22R.31; App.140–41; 22R.29. The circuit court credited the evidence. This Court should disregard Alamuri’s speculation and baseless accusations to the contrary.
- Alamuri attacks the “chain of custody” of the genetic testing. Br.16–17. But he does not and cannot dispute the results. The circuit court credited the evidence.

STANDARD OF REVIEW

Mandatory intervention is reviewed *de novo*; permissive intervention is reviewed for erroneous exercise of discretion. *Hendrick v. Hendrick*, 2009 WI App 33, ¶ 19, 316 Wis. 2d 479, 765 N.W.2d 865.

ARGUMENT

I. The circuit court correctly denied intervention.

Alamuri moved to intervene in the cases below as a mandatory intervenor and a permissive intervenor. *See* Wis. Stat. §§ 803.09(1), (2). But caselaw directly on point—left unmentioned by Alamuri—controls the outcome here. *Hendrick*, 2009 WI App 33. That should end the matter. In all events, Alamuri cannot show that he was entitled to intervene or that the circuit court erred in denying his motions.

Mandatory intervention is available as a matter of right if the following four-part test is satisfied: the motion for intervention is timely; the moving party claims an interest relating to the property or transaction that is the subject of the action; the moving party is situated such that the disposition of the action may impair or impede the moving party's ability to protect the interest; and the moving party's interest is not adequately represented by existing parties. *See id.*; *Armada Broad., Inc. v. Stirn*, 183 Wis. 2d 463, 471, 516 N.W.2d 357 (1994).

Permissive intervention must also be sought timely. Wis. Stat. § 803.09(2); *Sewerage Comm'n of City of Milwaukee v. State Dep't of Nat. Res.*, 104 Wis. 2d 182, 186, 311 N.W.2d 677 (Ct. App. 1981). Beyond that, permissive intervention is entirely in the circuit court's discretion. *See Hoppmann v. Reid*, 86 Wis. 2d 531, 534, 273 N.W.2d 298 (1979); *Kornitz v. Commonwealth Land Title Ins. Co.*, 81 Wis. 2d 322, 332–33, 260 N.W.2d 680 (1978); *Hendrick*, 2009 WI App 33, ¶ 19. A court therefore may deny intervention even when there is a common question of law or fact and the statutory requirements are otherwise satisfied.

A. Alamuri did not timely move to intervene.

Any motion to intervene must be “timely.” Wis. Stat. § 803.09(1), (2); *Sewerage Comm’n*, 104 Wis. 2d at 186. “Two factors play into a circuit court’s discretionary determination of timeliness: whether, in light of all the circumstances, the proposed intervenor acted promptly, and whether the intervention will prejudice the original parties to the lawsuit.” *Olivarez v. Unitrin Prop. & Cas. Ins. Co.*, 2006 WI App 189, ¶ 15, 296 Wis. 2d 337, 723 N.W.2d 131. “The critical factor is whether, under the circumstances, the proposed intervenor acted promptly.” *Id.* (cleaned up). Here, Alamuri was not prompt, and intervention would prejudice Angela and Narendra.

1. Alamuri was not prompt. “Promptness can be further broken down into two factors: when the proposed intervenor discovered its interest was at risk and how far litigation has proceeded.” *Id.* In neither case below can it be said that Alamuri acted “promptly.”

Alamuri discovered his interest *at the latest* in late 2019, when “Angela filed a paternity case naming [him].” Br.3. Multiple actions were filed against Alamuri, related to child support and paternity, were filed in 2021 in North Carolina. Br.3–4. Nevertheless, Alamuri did not move to intervene until the “litigation ha[d] proceeded” substantially—namely, *past judgment*.

If Alamuri had wanted to move to intervene in 19FA846, he should have done so *in 2019*, when it was pending. Not *after* the judgment on July 8, 2019. App.1; 19R.8. And certainly not *after* the April 21, 2023, Order declaring the prior paternity order void going forward as superseded by the order entered in the divorce case (22FA1824). App.14; 19R.60.

Likewise, if Alamuri had wanted to move to intervene in 22FA1824, he should have done so *in 2022*, when it was in its early stages. Not after several months of proceedings. And certainly not *after* the judgment of divorce on May 8, 2023. App.144; 22R.47.

Wisconsin adheres to the “general rule” that “motions for intervention made after entry of final judgment will be granted only upon a strong showing of entitlement and of justification for failure to request intervention sooner.” *Sewerage Comm’n*, 104 Wis. 2d at 186 (quoting *United States v. Associated Milk Producers, Inc.*, 534 F.2d 113, 116 (8th Cir. 1976)). Alamuri has not attempted to—and cannot—make such a showing. *See also State ex rel. Jones v. Gerhardstein*, 135 Wis. 2d 161, 168, 400 N.W.2d 1 (Ct. App. 1986), *aff’d*, 141 Wis. 2d 710, 416 N.W.2d 883 (1987) (affirming denial of intervention as untimely where motion was brought months after action was commenced, action was at critical stage, and no reason for delay existed).

Alamuri invokes *C.L. v. Edson*, 140 Wis. 2d 168, 409 N.W.2d 417 (Ct. App. 1987), but that case’s “unique facts limit its application,” *Olivarez*, 2006 WI App 189, ¶ 20. *Edson* involved a newspaper seeking access to sealed records and was decided on the basis that “newspapers enjoy a particular position as a representative of the public entitling them to access to court records.” *Id. Olivarez* rejected a law firm’s attempt to rely on *Edson*, explaining that “[a] law firm does not enjoy the same status as public representative that a newspaper does.” *Id.* If a law firm cannot rely on *Edson*, a single individual cannot either.

2. Alamuri’s participation in either case would clearly prejudice Angela and Narendra. Angela and Narendra seek to put the past behind them and do so quickly and amicably. Intervention *now* would be antithetical to that goal. Indeed,

at the time Alamuri sought intervention, Angela and Nar-enda had already obtained judgments in both their cases.

Alamuri argues that no prejudice would result “because vacating the newest orders in the WI cases will simply put the parties back in the position they created.” Br.31. But the focus on “vacating” indulges a logical error. The prejudice question asks how *intervention* would prejudice the existing parties—not how the proposed intervenor’s *requested relief, if granted*, would prejudice the existing parties. *See* Wis. Stat. § 803.09(2) (requiring court to consider “whether the intervention will unduly delay or prejudice *the adjudication of the rights of the original parties*” (emphasis added)). *Of course* the proposed intervenor’s requested relief, if granted, would prejudice at least one party—otherwise the proposed intervenor would not be seeking intervention in the first place.

In sum, Alamuri’s failure to timely move to intervene dooms his case for both mandatory and permissive interven-tion.

B. Alamuri lacks an interest sufficient to inter-vene.

1. Alamuri explains why, in his view, the family courts got things wrong on the merits, why the judgments in both cases should be reopened, and—in particular—why the mar-ital presumption should remain intact. *See, e.g.*, Br.28–29, 34–36. But none of that matters here.

What matters is whether Alamuri has shown “an inter-est sufficiently related to the property or transaction which is the subject of the action.” Wis. Stat. § 803.09(1). “The in-terest which entitles one to intervene in a suit between other parties must be an interest of such direct and immediate character that the intervenor will either gain or lose by the

direct operation of the judgment.” *Lodge 78 of Int’l Ass’n of Machinists, AFL-CIO v. Nickel*, 20 Wis. 2d 42, 46, 121 N.W.2d 297 (1963).

Alamuri claims an interest in “hav[ing] the Findings and Orders that the marital presumption has been rebutted vacated.” Br.31. He also claims the presumption rulings in the maintenance and divorce cases “are of direct and immediate character regarding [his] legal position.” Br.28. Those claims, however, only beg the question. Alamuri does not want a merits determination that rebuts the marital presumption. But *why*? The circuit court answered that question: to prevent Angela from “be[ing] allowed to pursue child support for [RKY] from him” and to evade “financial responsibility for [his] non-marital child.” App.239–40; 22R.58:2–3. Alamuri does not contest this finding and ultimately concedes as much, noting that the North Carolina child support case is what he ultimately seeks to avoid. Br.32.

2. The only other time a biological father tried something similar in Wisconsin, this Court rebuffed him. See *Hendrick*, 2009 WI App 33. In *Hendrick*, Jennifer Hendrick gave birth to a daughter while married to Garry Hendrick; but the biological father was Christopher Skarzynski. *Id.* ¶ 2.¹ The Hendricks decided to get divorced, and Skarzynski tried to intervene. *Id.* ¶¶ 18–19. His goal, like Alamuri’s, was to avoid child support based on the statutory presumption. *Id.* ¶¶ 2, 14, 22. Skarzynski asserted “detriment . . . to his financial interest” and sought to “continue on with his life as he has the last eight years.” *Id.* ¶¶ 14, 22.

¹ Just like here, genetic testing of the husband (Garry Hendrick; Narendra Yadagiri) confirmed his non-paternity. *Id.* ¶¶ 5, 19; App.239; 22R.58:2. Alamuri does not challenge this finding on appeal.

This Court affirmed the circuit court’s denial of *both mandatory and permissive* intervention. *Id.* ¶¶ 18, 19. It observed that “the proper parties to a divorce action are the husband, wife, and the children of the marriage.” *Id.* ¶ 22. Barring “exceptional circumstances” that the Court could not even “envision,” “third persons should not be able to interject themselves into a divorce to advance their own parochial interests.” *Id.* Because that was “precisely what Skarzynski sought to do,” the circuit court had “properly rejected his attempt to avoid the obligations of fatherhood by muddying the waters of the Hendricks’ divorce action.” *Id.* That reasoning applies with equal force here.

Indeed, *Hendrick* is directly on point and is dispositive here. Alamuri does not cite it. Nor does Alamuri cite a single case in which a biological father *has* been permitted to “intervene in a divorce action to argue against overcoming the marital presumption.” App.240; 22R.58:3.

3. Angela’s and Narendra’s divorce action, moreover, is between *them*. Substantial privacy interests attach to that proceeding. “A third party seeking intervention in a divorce proceeding for the purpose of protecting a property interest assumes the burden of demonstrating an interest which will outweigh the substantial privacy interests of the divorcing parties.” *Boyle v. Boyle*, 194 W. Va. 124, 127, 459 S.E.2d 401, 404 (1995). Alamuri, who is undeniably trying to vindicate a monetary interest—not even a true “property” interest—has not and cannot overcome that presumption.

As the circuit court recognized, “[t]his is different from a biological parent who wants to intervene in a support or divorce action to *secure* rebuttal of the marital presumption” R.59:3. In that situation, a person is saying, “I *am* the biological parent—that’s my interest.” But here, Alamuri seeks to *oppose* rebuttal of the marital presumption. He is—

and must be, for his position to make any sense—saying, “I *am not* the biological parent.” But then, who is he? From the standpoint of the law, he is just any random person. And any random person certainly *does not* have an interest sufficient to justify intervention in a divorce or maintenance action.

4. Later in his brief, Alamuri suggests that *he* should be able to intervene on behalf of *RKY*’s position. *See* Br. 33. But a proposed intervenor must justify *his* interest—not someone else’s. In any event, *RKY*’s interests *were* represented by a GAL throughout. The appointment of GALs, and their participation in family actions to represent minor children’s best interests, is governed by a specific statute. *See* Wis. Stat. § 767.407. That leaves no room for the general civil intervention statute to apply. *See id.* § 767.201 (“*Except as otherwise provided* in the statutes, chs. 801 to 847 govern procedure and practice in an action affecting the family.” (emphasis added)); *Joshua K. v. Nancy K. (K.)*, 201 Wis. 2d 655, 549 N.W.2d 494, 496 (Ct. App. 1996).

Alamuri makes much of the fact that the Angela and Narendra gave *RKY* the “Yadagiri” name, included their name on his birth certificate, and may have even represented to some that he was their son. *E.g.*, Br.37. None of this matters for three reasons. First, it was entirely appropriate for the circuit court to “give[] no consideration” to those asserted facts in deciding a motion *to intervene*; those facts, whatever their veracity, relate to the underlying merits, not to intervention. Second, Alamuri’s account contradicts the facts stated by the GAL and adopted by the circuit court. App.239; 22R.58:2; App.142–43; 22R.31; App.140–41; 22R.29.² Third, even if Alamuri’s asserted facts were

² On multiple occasions, without citation to any record evidence, Alamuri impugns GAL Richter and speculates about her motivations and findings. Br.15–16, 38–39. The Court should disregard this speculation.

accurate, so what? It is certainly possible to presume both in law *and in fact* that a son is your husband's—only to later realize that, in fact, he is someone else's. That situation is precisely why the legal presumption is rebuttable.

*

The Court should follow *Hendrick's* controlling precedent and reject Alamuri's purported interest. The circuit court correctly and within its discretion did so. Common sense and fairness require this result. This is a case where the circuit court did, and this Court should, allow the "original parties to a lawsuit to conduct and conclude their own lawsuit." *Helgeland v. Wis. Municipalities*, 2008 WI 9, ¶ 44, 307 Wis. 2d 1, 745 N.W.2d 1.

C. Because Alamuri lacks an interest, neither protection nor adequacy matters.

For mandatory intervention, Alamuri must show both that he is situated such that the disposition of the action may impair or impede his ability to protect his interest; and that his interest is not adequately represented by existing parties.

As just explained, Alamuri lacks an interest capable of supporting intervention. It therefore is irrelevant whether

Moreover, to the extent two different GALs were involved and presented conflicting findings and opinions to the circuit court, the circuit court was entitled to weigh, evaluate credibility, and accept the facts as presented by GAL Richter (the later-in-time GAL) over GAL Wallace (the earlier-in-time GAL). On appeal, the circuit court's decision in that regard is presumed correct. *See, e.g., Hennessy v. Wells Fargo Bank, N.A.*, 2020 WI App 64, ¶ 16, 394 Wis. 2d 357, 950 N.W.2d 877, *aff'd*, 2022 WI 2 ("[W]e affirm the circuit court's findings so long as there is evidence in the record that would permit a reasonable person to make the same findings, even if contrary findings could also reasonably be made based on the same evidence.").

his ability to protect an interest is impaired, or whether an interest is adequately represented.

On the latter point, consider also the logical quandary posed above. On the one hand, Alamuri could say he *is* RKY's biological father. But then the only logical position he could take would be *in support of* rebutting the marital presumption. And *that* interest is already adequately protected: both Angela and Narendra want (and have already secured) rebuttal. On the other hand, Alamuri could say he *is not* RKY's biological father. But then, who is he? He cannot articulate any interest (other than being the biological father) that is logical and would support intervention. The reality is that Alamuri is pursuing a purely "parochial" interest in avoiding child support. *Hendrick*, 2009 WI App 33, ¶ 22. To the extent his interest is welcome anywhere, it is in the pending paternity action—in North Carolina. *See id.* ¶ 21 ("[T]he paternity action is where Skarzynski's battle had to be fought.").

D. The circuit court properly exercised its discretion to deny permissive intervention.

All the reasoning above supports the circuit court's decision to deny both mandatory and permissive intervention. Both forms of intervention must be sought timely; but Alamuri failed to timely seek intervention. Both forms of intervention were squarely rejected by the *Hendrick* Court.

Permissive intervention requires that the proposed intervenor's "claim or defense and the main action have a question of law or fact in common." Wis. Stat. § 803.09(2). Alamuri fails to explain what his claim or defense is, and what questions of law or fact he shares in common with the divorce or support proceeding. Alamuri refers to the "same facts and legal arguments" he raised as to mandatory intervention. Br.34. But those are not arguments about claims or defenses or common questions. Failure to develop an argument

waives it. *Ashker v. Aurora Med. Grp., Inc.*, 2013 WI App 143, ¶ 15 n.1 352 Wis. 2d 193, 841 N.W.2d 297 (Neubauer, J., concurring); *State ex rel. Flynn v. Kemper Ctr., Inc.*, 2019 WI App 6, ¶ 30 n.12, 385 Wis. 2d 811, 924 N.W.2d 218.

Permissive intervention, of course, can be denied even if common questions of law or fact exist. That is because permissive intervention is entirely within the circuit court's discretion. *See Hoppmann*, 86 Wis. 2d at 534; *Kornitz*, 81 Wis. 2d at 332–33; *Hendrick*, 2009 WI App 33, ¶ 19. Alamuri's "burden . . . to show an erroneous exercise of discretion is heavy." *State v. Ramuta*, 2003 WI App 80, ¶ 23, 261 Wis. 2d 784, 661 N.W.2d 483. Alamuri does not and cannot meet his heavy burden to show circuit court erroneously exercised its discretion in denying permissive intervention. Again, other than to refer to his mandatory-intervention arguments, Alamuri does not develop anything further.

The circuit court reasoned carefully and reached a reasonable result. Its four-page order thoroughly explains Angela's and Narendra's litigation history; that Alamuri came along late, "[a]fter all the above [maintenance and divorce proceedings] concluded"; that Alamuri advances an interest far removed from any interest supporting intervention; explains that nothing beneficial would be accomplished by permitting Alamuri to intervene; that intervention would "render a gross injustice"; and that, in all events, the Court is not the proper venue for Alamuri to air his grievances. *See generally* App.238–41; 22R.58.

Finally, just like with mandatory intervention, permissive intervention should be rejected when it would "unduly delay or prejudice the adjudication of the rights of the original parties." Wis. Stat. § 803.09(2). As explained above, Alamuri's untimeliness—and intervention generally—would unduly delay and prejudice the adjudication of Angela's and

Narendra's rights. *See supra* Argument I.A. Indeed, when Alamuri moved to intervene, Angela's and Narendra's rights *had already been adjudicated*.

Alamuri neither analyzes nor cites any case in which an appellate court reversed a circuit court's decision to deny permissive intervention—much less a case with facts and circumstances similar to this one. To the contrary, the most on-point precedent available—*Hendricks*—held that neither mandatory nor permissive intervention was available. That should be the end of the matter.

II. Denial of the motion to reopen is not for this Court to consider.

Because intervention was properly denied, there is no reason to proceed to Alamuri's second issue—whether the motion to reopen was properly denied. That is an issue within the circuit court's discretion. *See In re Paternity of M.T.H.*, 140 Wis. 2d 843, 412 N.W.2d 164 (Ct. App. 1987). As a result, if this Court were to reverse the intervention decision, it should remand for the trial court to consider reopening anew. Alamuri agrees. *See* Br.42 (requesting remand for circuit court to consider motion to reopen).³

³ Alamuri refers to Wisconsin Statutes section 822.22, part of the Uniform Child Custody Jurisdiction Enforcement Act. That statute is wholly inapplicable. As its name suggests, it concerns custody—not divorce, maintenance, or even paternity. Alamuri cites no law to the contrary. In addition, its repeated references to “court[s] of this state” and “court[s] of another state” show that its sole focus is on orders of courts *in different states*. It has nothing to say about the interaction of two actions at issue here—19FA846 and 22FA1824—which were *in the same state* and *in the same county*. Again, Alamuri cites no law to the contrary. (And, the circuit court below “determin[ed]” that section 822.22(1)'s preconditions are satisfied. *See* App.241; 22R.58:4.)

CONCLUSION

This Court should affirm the final orders in the cases below.

Dated this 8th day of January, 2024.

**Electronically signed by
Jon C. Manzo**

Jon C. Manzo, 1023987
JON C. MANZO
LAW OFFICE
6808 University Avenue
Suite 125
Middleton, WI 53562
608.831.2529
hansonmanzo@gmail.com

*Counsel for Angela Marie
Yadagiri*

**Electronically signed by
Joseph S. Diedrich**

Joseph S. Diedrich, 1097562
HUSCH BLACKWELL LLP
33 E. Main Street, Suite 300
Madison, WI 53703
608.255.4440
joseph.diedrich
@huschblackwell.com

*Counsel for Narendra
Yadagiri*

FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wisconsin Statutes section 809.19(8)(b)–(c) for a brief and appendix produced with a proportional serif font. The length of this brief is 4178 words.

Dated this 8th day of January, 2024.

Electronically signed by **Electronically signed by**
Jon C. Manzo **Joseph S. Diedrich**
