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CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
IN SUPREME COURT
Case No. 2024AP000021

In the matter of the guardianship and protective placement of: T.R.Z.

WASHINGTON COUNTY,

Petitioner-Respondent,

v.

T.R.Z.,

Respondent-Appellant-Petitioner

RESPONSE ON PETITION FOR REVIEW

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The County opposes Tim's petition for review. The court of appeals applied the correct principles of law when it dismissed the appeal as moot. *See Washington County vs. T.R.Z.*, No. 2024AP21, unpublished slip op., (Wis. Ct. App. June 19, 2024).

**THIS COURT SHOULD DENY THE PETITION
FOR REVIEW BECAUSE IT DOES NOT
SATISFY THE CRITERIA IN WIS. STAT.
§(RULE) 809.62(1r).**

Tim's petition does not meet the criteria for review; therefore, it should be denied. Tim is requesting that this Court essentially ignore the well-established law in Wisconsin surrounding mootness. Tim's ultimate relief following an ineffective assistance of counsel claim would have been a new due process hearing. The typical remedy for an ineffective assistance of counsel claim is to return to the stage in the proceedings before the acts of ineffectiveness. It is undisputed that Tim received a full due process hearing on March 27, 2024, and the trial court issued an order continuing Tim's protective placement. A notice of intent to appeal was not filed. "An issue is moot when its resolution will have no practical effect on the underlying controversy." *PRN Assocs.*, 317 Wis.2d 656, ¶25, 766 N.W.2d 559. If all issues on an appeal are moot, the appeal should be dismissed.

Tim's petition does not demonstrate a compelling reason for this Court to clarify or harmonize the law. The court of appeals correctly distinguished the case at hand from this Court's decision in *Sauk County vs. S.A.M.*, 2022 WI 46¶19, 402 Wis 2d 379, 975 N.W.2d 162, correctly stating that the collateral consequences in a Chapter 51 do not apply. The court of appeals also demonstrated sound reasoning as to why the mootness exceptions do not apply.

Tim's petition for review fails to adequately demonstrate how the issues in this case continue to evade review. The court of appeals correctly stated that this has not been a recurring issue for Tim.

With respect to issue of the petition for annual review being filed one day late, Tim fails to show if, or even how he was prejudiced by one day in light of the fact that he received an entirely new due process hearing that resulted in the continuation of his protective placement. This provides an additional basis to affirm the court of appeal's decision, and this basis further supports why granting review is unwarranted.

The court of appeals opinion is not citable. The issues are heavily fact intensive, and the court of appeals correctly applies the "well settled principles to the factual situation." Wis. Stat. § (Rule) 809.62 (1r)(c)1. The petition for review fails to adequately

show why any of the criteria for review are met in this case. Wis. Stat. § (Rule) 809.62 (1r).

Tim argues that this Court should use its superintending authority to hold that an appeal of an annual protective placement is never moot. Petition for Review, pg. 17. In doing so, Tim notes that this Court will not invoke its superintending “lightly.” *Id.* at 18 (citing *In re Jerrell C.J.*, 2005 WI 105, ¶ 41, 283 Wis. 2d 145, 165, 699 N.W.2d 110, 120). Yet, despite knowing this, Tim fails to fully and articulately convey an argument for why this Court should exercise its superintending authority. Simply declaring a case “complex” with “important legal issues” should not be a basis for this Court to invoke its superintending power when this power must not be invoked “lightly.”

CONCLUSION

This Court should deny Tim’s petition for review.

Dated this 14th day of August 2024

Signed:

Electronically signed by
Eileen T. Evans
EILEEN T. EVANS
Deputy County Attorney

CERTIFICATION AS TO FORM/LENGTH

I hereby certify that this brief conforms to the rules contained in s. 809.19(8)(b), (bm), and 809.62(4). The length of this Response is 594 words.

CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this brief is an appendix that complies with s. 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rules or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review or an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 14th day of August 2024.

Signed:

Electronically signed by
Eileen T. Evans
EILEEN T. EVANS
Deputy County Attorney