



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT III/IV

September 2, 2015

To:

Hon. Michael H. Bloom
Circuit Court Judge
1 Courthouse Square
Rhineland, WI 54501

Elizabeth Plautz
Juvenile Clerk
Oneida County Courthouse
1 Courthouse Square, PO Box 400
Rhineland, WI 54501

Brian F. Bennett
P.O. Box 302
Rhineland, WI 54501

Brian J. Desmond
Oneida County Corporation Counsel
P.O. Box 400
Rhineland, WI 54501

Leonard D. Kachinsky
Sisson & Kachinsky Law Offices
103 W. College Ave. #1010
Appleton, WI 54911-5782

Galen Bayne-Allison
P.O. Box 915
Rhineland, WI 54501-0915

B. L.-B.

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

2015AP663-NM	In re the termination of parental rights to B. L.-J., a person under the age of 18: Oneida County v. B. L.-B. (L.C. #2014TP3)
2015AP664-NM	In re the termination of parental rights to B. L.-J., a person under the age of 18: Oneida County v. B. L.-B. (L.C. #2014TP4)

Before Kloppenburg, P.J.¹

Attorney Leonard Kachinsky, appointed counsel for B. L.-B., has filed a no-merit report pursuant to WIS. STAT. RULE 809.107(5m). Counsel provided B. L.-B. with a copy of the report, and both counsel and this court advised him of his right to file a response. B. L.-B. has not responded. I conclude that these cases are appropriate for summary disposition. *See* WIS. STAT.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

RULE 809.21. After my independent review of the records, I conclude there is no arguable merit to any issue that could be raised on appeal.

B. L.-B. pled no contest and waived a fact-finding hearing on the ground of failure to assume parental responsibility. After a contested dispositional hearing, the circuit court found that termination was in the best interests of the children.

The no-merit report addresses whether the circuit court properly accepted B. L.-B.'s no contest waiver of the grounds phase. We conclude, for the reasons set forth in the no-merit report, that there is no arguable merit to a motion to withdraw this plea.

The no-merit report also addresses whether the circuit court erroneously exercised its discretion by terminating B. L.-B.'s parental rights. The court considered the appropriate factors under WIS. STAT. § 48.426, and reached a reasonable conclusion. It would be frivolous to argue that the court erroneously exercised its discretion.

The no-merit report addresses whether B. L.-B. could raise an issue of ineffective assistance based on a claim that his trial counsel should have moved for B. L.-B.'s mother and stepfather to be appointed guardian under WIS. STAT. § 48.977, presumably as an alternative to terminating his parental rights. The no-merit report concludes that such a motion would have been frivolous because his mother and stepfather were not persons with whom the children had already been placed, or with whom placement was recommended, as required by § 48.977(2)(b).

I agree that this would have been a substantial obstacle to success of any such motion, as would the requirement that the circuit court find that it is not in the best interests of the children for a petition to terminate parental rights to be filed, as provided in WIS. STAT. § 48.977(2)(d).

Given that the court here concluded that termination was in the children's best interests, there does not appear to be any basis to argue that the court would have found a TPR petition to be not in the children's best interests.

My review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the order terminating parental rights is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Kachinsky is relieved of further representation of B. L.-B. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals