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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 II

October 5, 2016

To:

Hon. William Domina
Circuit Court Judge
Juvenile Center
521 W. Riverview, Room JC 103
Waukesha, WI 53188-3636

Kelly K. Haag
Juvenile Clerk
521 W. Riverview, Room JC 103
Waukesha, WI 53188-3636

Gregory Bates
Bates Law Offices
P.O. Box 70
Kenosha, WI 53141-0070

Robyn A. Schuchardt
Assistant Corporation Counsel
1320 Pewaukee Road
Waukesha, WI 53188-3873

N. A. B.
1081 Regent Rd., Unit 803
Oconomowoc, WI 53066

Arnold Arthur Moncada Jr.
Moncada Law Firm
W276 N2177 Spring Creek Dr.
Pewaukee, WI 53072

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

2016AP761-NM

In the interest of N.A.B, a person under the age of 18: Waukesha County DH&HS v. N.A.B. (L.C. # 2015JV2)

Before Hagedorn, J.¹

N.A.B. appeals from an order adjudicating him to be a juvenile in need of protection or services (JIPS). N.A.B.'s appellate counsel filed a no-merit report pursuant to WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967). N.A.B. received a copy of the report, was advised of his right to file a response, and has elected not to do so. After reviewing the

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

record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the order.

In January 2015, Waukesha County Department of Health and Human Services (the Department) filed a JIPS petition based upon allegations of N.A.B.'s habitual truancy from school. N.A.B. pled no contest to the petition. The circuit court withheld findings, and the parties entered into a consent decree.

Several months later, the Department filed a petition to vacate the consent decree based upon N.A.B.'s continued truancy and refusal to return to his mother's home, as required by the family court's placement determination following his parents' divorce. The circuit court vacated the consent decree, and the matter proceeded to disposition.

At disposition, the parties' recommendations largely centered on the placement of N.A.B. N.A.B. sought a change in placement so that he would be with his father on an equal or full-time basis. The circuit court declined to modify the family court's placement determination and ordered N.A.B. on supervision for one year with various conditions, including the requirement to attend school. This no-merit appeal follows.

The no-merit report addresses the following appellate issues: (1) whether N.A.B.'s plea was knowingly, voluntarily, and intelligently entered; (2) whether the circuit court erroneously exercised its discretion when it vacated the consent decree; and (3) whether the circuit court

erroneously exercised its discretion at disposition when it declined to modify the family court's placement determination and ordered supervision for one year with various conditions.²

The no-merit report thoroughly discusses these issues. We agree with counsel that these issues do not have arguable merit for appeal. Here, the circuit court engaged in a plea colloquy with N.A.B. that satisfied the requirements of WIS. STAT. § 938.30(8). In addition, a signed plea questionnaire/waiver of rights form was entered into the record. The court properly vacated the consent decree, as it was undisputed that N.A.B. had failed to fulfill its express terms. *See* WIS. STAT. § 938.32(3). Finally, the court properly exercised its discretion at disposition, as it examined the relevant facts, applied the correct law, and used a rational process to reach a reasonable conclusion. *State v. Richard J.D.*, 2006 WI App 242, ¶5, 297 Wis. 2d 20, 724 N.W.2d 665.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Gregory Bates of further representation of N.A.B. in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

² In the no-merit report, counsel uses the phrase "abuse of discretion." We have not used the phrase "abuse of discretion" since 1992, when our supreme court replaced the phrase with "erroneous exercise of discretion." *See, e.g., Shirk v. Bowling, Inc.*, 2001 WI 36, ¶9 n.6, 242 Wis. 2d 153, 624 N.W.2d 375.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of N.A.B. in this matter.

Diane M. Fremgen
Clerk of Court of Appeals