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January 9, 2017

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

2016AP2125-NM	In re the termination of parental rights to G.V.T., a person under the age of 18: Polk County Department of Human Services v. V.L.T. (L.C. # 2015TP11)
2016AP2126-NM	In re the termination of parental rights to G.P.T., a person under the age of 18: Polk County Department of Human Services v. V.L.T. (L.C. # 2015TP12)

Before Lundsten, J.¹

Attorney Dennis Schertz, appointed counsel for V.L.T., has filed a no-merit report in these consolidated appeals concerning orders terminating V.L.T.'s parental rights to G.V.T. and

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

G.P.T. See WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there would be arguable merit to claims of insufficiency of the evidence, procedural error, ineffective assistance of counsel, or erroneous exercise of discretion at disposition. V.L.T. was sent a copy of the report, but has not filed a response. Upon my independent review of the entire record, as well as the no-merit report, I agree with counsel's assessment that there are no arguably meritorious appellate issues.

On July 9, 2015, the State petitioned to terminate V.L.T.'s parental rights to G.V.T. and G.P.T.,² alleging the following grounds: (1) the children were in continuing need of protection or services (continuing CHIPS) under WIS. STAT. § 48.415(2); and (2) V.L.T. had failed to assume parental responsibility under § 48.415(6). V.L.T. denied the allegations in the petitions. Following trial, the jury found that grounds existed to terminate based on continuing CHIPS. The circuit court then found that termination was in the children's best interests.

The no-merit report addresses whether there would be arguable merit to a claim that there was insufficient evidence to support the jury's findings establishing grounds for termination based on continuing CHIPS. I agree with counsel's assessment that an argument that the evidence was insufficient to support the jury's findings would lack arguable merit.

Grounds for termination must be established by clear and convincing evidence. See WIS. STAT. §§ 48.31(1) and 48.424(2). A jury's determination that grounds exist for termination will

² The State also petitioned to terminate the parental rights of the children's mother, L.L. L.L. voluntarily terminated her parental rights.

be upheld so long as there is any credible evidence to support that determination. *See State v. Quinsanna D.*, 2002 WI App 318, ¶30, 259 Wis. 2d 429, 655 N.W.2d 752.

The jury returned special verdicts as to whether grounds existed to terminate V.L.T.'s parental rights as to each child based on continuing CHIPS or failure to assume parental responsibility. The first question—on the continuing CHIPS special verdicts whether the child had been adjudged to be in need of protection or services and placed outside the home for a cumulative period of six months or longer pursuant to one or more court orders containing the termination of parental rights notice required by law—was answered affirmatively by the circuit court on the parties' stipulation. The jury also found that: (1) the department had made a reasonable effort to provide the services ordered by the court; (2) V.L.T. had failed to meet the conditions of return; and (3) there was a substantial likelihood that V.L.T. would not meet the conditions of return within the nine-month period following the hearing. There was credible evidence presented at trial to support each of the jury's findings, including testimony by V.L.T., county child protection workers who had worked with V.L.T. and his children, and a psychologist who had conducted a parental evaluation of V.L.T. Because the record contains sufficient evidence to support the jury's affirmative answer to each of the questions on the special verdicts, I agree that a challenge to the sufficiency of the evidence would lack arguable merit.

The no-merit report concludes that there would be no arguable merit to a challenge to the circuit court's evidentiary rulings or jury instructions. I agree that further proceedings on those grounds would be wholly frivolous.

The no-merit report also concludes that there would be no arguable merit to a claim of ineffective assistance of counsel. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984) (claim of ineffective assistance of counsel must show that counsel's performance was deficient and also that the deficient performance prejudiced the defense). I agree with counsel's assessment that a claim of ineffective assistance of counsel would lack arguable merit.

Finally, the no-merit report addresses whether the circuit court properly exercised its discretion by determining that termination of V.L.T.'s parental rights was in the children's best interests. I agree with counsel's assessment that, based on the evidence at the dispositional hearing and the court's explanation of its decision on the record, any argument that the circuit court erroneously exercised its discretion would lack arguable merit.

Upon my independent review of the record, I have found no other arguable basis for reversing the orders terminating V.L.T.'s parental rights. I conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Upon the foregoing,

IT IS ORDERED that the orders terminating V.L.T.'s parental rights are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Dennis Schertz is relieved of any further representation of V.L.T. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals