

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 22, 2005

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 04-3177
STATE OF WISCONSIN

Cir. Ct. No. 04TP34

**IN COURT OF APPEALS
DISTRICT III**

**IN RE THE TERMINATION OF PARENTAL RIGHTS
TO LETICIA P.S.A.-T., A PERSON UNDER THE
AGE OF 18:**

BROWN COUNTY DEPARTMENT OF HUMAN SERVICES,

PETITIONER-RESPONDENT,

v.

VICTORIA H.,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Brown County:
J. D. MCKAY, Judge. *Affirmed.*

¶1 CANE, C.J.¹ Victoria H. appeals a judgment terminating her parental rights to her daughter, Leticia P.S.A.-T. She argues there was insufficient

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

evidence from which the jury could conclude that Brown County made reasonable efforts to provide Victoria court-ordered services. We disagree and affirm the judgment.

BACKGROUND

¶2 Leticia was taken into County custody on April 10, 2002, because Victoria was arrested and there was no one else in the home to care for her. An order placing Leticia in foster care was entered on June 25, and extended on June 16, 2003, and June 4, 2004.

¶3 In September or October 2003, Victoria went to Florida without approval or knowledge of her probation officer or social worker. Victoria testified she left Wisconsin because she was afraid she would be harmed by her ex-boyfriend. She stated that she returned to Wisconsin after a month. However, her probation officer and social worker testified they did not know of her return until March 2004. At any rate, the last time Victoria visited Leticia was on September 30, 2003, just before she left for Florida.

¶4 The County filed a petition to terminate Victoria's parental rights on March 15, 2004. The County alleged Leticia had a continuing need for protection and services, under WIS. STAT. § 48.415(2). At trial, social worker Lisa Aiello testified that Victoria had not completed the conditions for Leticia's return except for participating in a parenting program. She also testified regarding services the County had provided Victoria in an attempt to help her complete her conditions. The jury found grounds to terminate Victoria's parental rights and the court ordered her parental rights terminated.

ANALYSIS

¶5 The issue is whether there was sufficient evidence to support the jury's verdict that the County made reasonable efforts to provide court-ordered services. Our review of a jury's verdict is narrow. We will sustain the verdict if there is any credible evidence to support it. *Meurer v. ITT Gen. Controls*, 90 Wis. 2d 438, 450, 280 N.W.2d 156 (1979). In applying this narrow standard of review, we consider the evidence in a light most favorable to the jury's determination. *Id.* It is the jury's role, not an appellate court's, to balance the credibility of witnesses and the weight given to their testimony. *Id.* To that end, we search the record for credible evidence that sustains the jury's verdict, not for evidence to support a verdict that the jury could have reached but did not. *Gonzalez v. City of Franklin*, 137 Wis. 2d 109, 135, 403 N.W.2d 747 (1987).

¶6 According to WIS. STAT. § 48.415(2)(a)2.a. and b., the County must make a "reasonable effort" to provide the services ordered by the court. "[R]easonable effort" means an earnest and conscientious effort to take good faith steps to provide the services ordered by the court which takes into consideration the characteristics of the parent or child ... the level of cooperation of the parent ... and other relevant circumstances of the case." WIS. STAT. § 48.415(2)(a)2.a. Victoria argues she needed help with employment and housing but received no assistance in these areas. Furthermore, she claims that her social worker failed to discover whether exceptions to the policy that incarcerated parents cannot have visitation applied to her. Therefore, she argues the jury could not have found the County made reasonable efforts to provide her services.

¶7 The record failed to support Victoria's arguments. We look for evidence to support the jury's verdict, not evidence from which it could have come

to a different conclusion. *Gonzalez*, 137 Wis. 2d at 135. Aiello testified she referred Victoria to Integrated Community Services for housing assistance. However, Victoria did not complete some “services in relation to her criminal history” that the housing agency required. Once those services were completed, the housing agency would have reviewed her application.

¶8 Aiello also testified regarding arrangements she made for Victoria to have visitation with Leticia. Before Victoria was incarcerated, Aiello arranged visitation at both the Ruth Helf Family Center and the foster mother’s home. When Victoria became incarcerated, Aiello informed her that she could maintain contact with Leticia through mail and, if the foster parents allowed it, through collect phone calls. When Victoria was released from jail, the County resumed its assistance with visitation. When Victoria was incarcerated again after she returned from Florida, visitation was not approved in jail because “the environment [was] not conducive to children.” However, Aiello again advised Victoria she could communicate with Leticia through mail. Victoria did send letters to Leticia through Aiello, and also received some letters back from Leticia.

¶9 Aiello also testified that she had spoken to Victoria in person, by phone and through letters regarding her conditions and what she needed to do in order to complete them. Aiello made referrals for Victoria for counseling and directed her towards financial assistance for that counseling. However, to Aiello’s knowledge, Victoria never completed any counseling sessions. Aiello arranged for parenting programs for Victoria both while Victoria was in jail and when she was out of jail. Aiello testified that Victoria participated in the programs but did not successfully complete them.

¶10 Furthermore, Aiello testified that she was out of contact with Victoria for approximately four months after Victoria went to Florida. Aiello stated, “Her whereabouts were unknown at that time, and I did not receive any indication from her exactly where she was so that she could be reached and that we could engage her in services that would promote reunification with her child.” Aiello attempted to locate Victoria by contacting Leticia’s foster mother, Victoria’s probation officer, and the father of Victoria’s other child. No one knew where she was. Thus, from Aiello’s testimony, the jury could conclude that, given the circumstances, the County made a reasonable effort to provide Victoria services.

¶11 In Victoria’s reply brief, she argues for the first time that the CHIPS disposition order did not identify the specific services the County was to provide her. She argues that without that evidence, the jury had no basis from which to conclude the County made a reasonable effort to provide court-ordered services. However, we do not review issues raised for the first time in a reply brief. *See In re Bilsie*, 100 Wis. 2d 342, 346 n.2, 302 N.W.2d 508 (Ct. App. 1981).

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

