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DISTRICT I

January 6, 2026

To:

Hon. Joseph R. Wall
Circuit Court Judge
Electronic Notice

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Juvenile Clerk
Milwaukee County Courthouse
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Electronic Notice

Division of Milwaukee Child Protective Services
Charmian Klyve
635 North 26th Street
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D.M.L.

Julian B. Lacera
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Guardian Ad Litem Division
Milwaukee, WI 53226

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

2025AP2334-NM	In re the termination of parental rights to A.Q.L., a person under the age of 18: State of Wisconsin v. D.M.L. (L.C. # 2023TP189)
2025AP2335-NM	In re the termination of parental rights to A.A.L., a person under the age of 18: State of Wisconsin v. D.M.L. (L.C. #2023TP190)

Before Geenen, J.[1]

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

D.M.L. appeals from orders terminating his parental rights to his children, A.Q.L. and A.A.L. Appellate counsel, Pamela Moorshead, has filed a consolidated no-merit report. *See*

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

WIS. STAT. RULES 809.107(5m), 809.32; *see also* ***Anders v. California***, 386 U.S. 738 (1967). D.M.L. filed two responses.[2] Based upon an independent review of the records, the no-merit report, and the responses, this court concludes that there are no arguably meritorious issues that could be pursued on appeal. Therefore, the orders terminating D.M.L.'s parental rights are summarily affirmed.

The Division of Milwaukee Child Protective Services received a call on December 29, 2021, reporting that the children's mother, E.T., had been hospitalized the day before. She had multiple injuries, including both eyes swollen shut, fractures to her right foot, rib fractures, a head injury, inability to walk, multiple contusions, and a fractured right wrist, all reportedly inflicted by D.M.L. D.M.L. was arrested but was released when E.T. refused to confirm he was the perpetrator. On January 4, 2022, the Division received a call from D.M.L.'s mother, who reported the children were with D.M.L.'s sister because D.M.L. was in police custody after he turned himself in to police related to the assault of E.T. With neither parent available, the children were taken into protective custody. While being given a health screening, A.Q.L. was discovered to have multiple injuries that indicated physical abuse, some that appeared to have occurred within the preceding one to two weeks and some that appeared older. The children were adjudicated in need of protection or services (CHIPS) in June 2022. In November 2022, D.M.L. was convicted on criminal charges in which E.T. was the victim, and was sentenced to over 27 years' imprisonment.[3]

[2] Neither response is signed, and the first response breaches confidentiality requirements.

[3] Both children will be adults before D.M.L. is eligible for release.

On October 30, 2023, the State filed the underlying petitions to terminate D.M.L.'s parental rights, alleging two grounds for termination: continuing CHIPS and failure to assume parental responsibility. *See* WIS. STAT. § 48.415(2), (6). An amended petition in A.A.L.'s case later added an allegation of abandonment. D.M.L. entered a no-contest plea to the continuing CHIPS ground for each child. Following a dispositional hearing, the circuit court terminated D.M.L.'s parental rights. D.M.L. appeals.

The no-merit report first discusses whether "the petitioner adhere[d] to all mandatory time limits," including the 30-day time limit for holding an initial hearing, the 45-day time limit for holding a fact-finding hearing, the 45-day time limit for holding a dispositional hearing. *See* WIS. STAT. §§ 48.422(1)-(2), 48.424(4). Here, the records reflect that although no deadlines were strictly complied with, the circuit court granted multiple extensions or continuances for good cause, without objection. *See* WIS. STAT. § 48.315(2). In any event, the failure by the court to act within any of the designated time periods "does not deprive the court of personal or subject matter jurisdiction or of competency to exercise that jurisdiction." Sec. 48.315(3). Accordingly, there is no arguably meritorious issue relating to the statutory time limits.

The no-merit report next discusses whether the termination petitions satisfied the statutory requirements for content. A TPR petition is required to include certain information "set forth with specificity." WIS. STAT. § 48.42(1). Our review of the records satisfies us that the petitions contain the required information, and that there is no arguable merit to challenging the legal sufficiency of either petition.

The third issue discussed in the no-merit report is whether D.M.L.'s pleas to the continuing CHIPS ground for termination were knowing, intelligent, and voluntary. Before

accepting a no-contest plea to a termination petition, the circuit court must engage the parent in a colloquy. *See* WIS. STAT. § 48.422(7); *see also* ***Oneida Cnty. DSS v. Therese S.***, 2008 WI App 159, ¶5, 314 Wis. 2d 493, 762 N.W.2d 122. As in a criminal case, the colloquy is required to ensure that the plea is knowing, intelligent, and voluntary and, thus, constitutionally adequate. *See* ***Brown Cnty. v. Brenda B.***, 2011 WI 6, ¶35, 331 Wis. 2d 310, 795 N.W.2d 730; ***State v. Bangert***, 131 Wis. 2d 246, 265-66, 389 N.W.2d 12 (1986).

Here, the circuit court conducted a colloquy with D.M.L. prior to accepting his pleas and heard evidence from the State in support of the continuing CHIPS allegations prior to disposition. *See* WIS. STAT. § 48.415(2)(a). Our review of the records satisfies us that the circuit court conducted a thorough colloquy with D.M.L. that reviewed all of the necessary information with him and that the State presented sufficient evidence to support the CHIPS ground for termination by clear and convincing evidence. *See* ***Evelyn C.R. v. Tykila S.***, 2001 WI 110, ¶22, 246 Wis. 2d 1, 629 N.W.2d 768. The no-merit report sets forth an adequate analysis of D.M.L.'s plea process, and we are satisfied that any challenge to D.M.L.'s no-contest pleas would lack arguable merit.

The final issue discussed in the no-merit report is whether the circuit court properly exercised its discretion when it terminated D.M.L.'s parental rights. "The ultimate decision whether to terminate parental rights is discretionary." ***Gerald O. v. Cindy R.***, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996). The circuit court must consider the factors set forth in WIS. STAT. § 48.426, while giving paramount consideration to the best interest of the child. *See* ***Gerald O.***, 203 Wis. 2d at 153-54. The no-merit report sets forth an accurate recitation of the testimony given at the dispositional hearing and the circuit court's findings relating to each statutory factor, and contains an appropriate analysis. The records reflect that the circuit court

expressly considered the relevant factors, made a number of factual findings based on the evidence presented, and reached a reasonable decision for each child. There is no arguable merit to challenging the circuit court's exercise of discretion in termination D.M.L.'s parental rights.

In his no-merit responses, D.M.L. contends that the State improperly used his criminal case to terminate his parental rights. One of his concerns is that his "parental rights were terminated for abandonment" when the lack of contact was the result of a no-contact order in the criminal case. Abandonment was alleged only as to A.A.L., and D.M.L.'s parental rights to A.A.L. were not terminated on the grounds of abandonment. There is no arguably meritorious claim relating to whether abandonment was a proper ground for termination.

D.M.L. may be more broadly arguing that his incarceration made some of the CHIPS conditions for the return of his children impossible, so terminating his parental rights was improper.[4] *See* ***Kenosha Cnty. DHS v. Jodie W.***, 2006 WI 93, ¶47, 293 Wis. 2d 530, 716 N.W.2d 845 ("[W]e must determine whether the circuit court's application of the statute was constitutionally permissible when the court determined that [the parent] was an unfit parent because [he or] she failed to meet conditions of return that were impossible for [him or] her to meet because [he or] she was incarcerated.").

"[A] parent's incarceration does not, in itself, demonstrate that the individual is an unfit parent." ***Id.***, ¶49. Likewise, "a parent's failure to fulfill a condition of return due to his or her

[4] D.M.L. refers to this as an equal protection issue and says if he did not have the criminal case, or had not been sentenced to so much time, his rights would not have been terminated. However, felons are not a protected class for equal protection purposes. *See* ***State v. Thomas***, 2004 WI App 115, ¶26, 274 Wis. 2d 513, 683 N.W.2d 497. The more applicable doctrine is due process. *See* ***Kenosha Cnty. DHS v. Jodie W.***, 2006 WI 93, ¶¶39-41, 293 Wis. 2d 530, 716 N.W.2d 845.

incarceration, standing alone, is not a constitutional ground for finding a parent unfit." ***Id.*** But a parent's incarceration is not irrelevant. ***Id.***, ¶50. Rather, WIS. STAT. § 48.415(2) "requires the court to evaluate the particular facts and circumstances relevant to the parent and child involved in the proceeding." ***Jodie W.***, 293 Wis. 2d 530, ¶50. Other facts and circumstances to consider include the parent's relationship with the child both prior to and while the parent is incarcerated, the nature of the crime committed by the parent, the length and type of sentence imposed, the parent's level of cooperation with the responsible agency and the Department of Corrections, and the best interests of the child. ***Id.***

Here, the record reflects that the findings of unfitness and termination of D.M.L.'s parental rights were not based exclusively on the fact of his incarceration. In a TPR matter, the government must show that the parent has failed to meet the conditions established in the order for the safe return of the child to the parent's home. *See* WIS. STAT. § 48.415(2)(a)3. The case manager acknowledged there were some conditions of return that D.M.L. could not meet because of his incarceration, including in-person visits with the children because E.T., as the non-incarcerated parent, refused to sign appropriate authorizations required by the Department of Corrections (DOC), and certain educational programming, which would not be offered by DOC until much closer to D.M.L.'s release date. However, D.M.L. failed to meet multiple conditions of return that were not hampered by his incarceration. Significantly, D.M.L. reported that he had been diagnosed with schizophrenia and bipolar disorder but he was not treating either condition with medication, even prior to his imprisonment, nor was he attempting to secure treatment from the prison. D.M.L. also failed to show any understanding of the significance of the harm domestic violence or physical discipline cause children. The case manager also testified that when she communicated with D.M.L., it was always her reaching out, and D.M.L. did not ask

her any questions about the children. Accordingly, the records do not support any arguable due process claim stemming from D.M.L.'s criminal conviction.

Our independent review of the records reveals no other potential issues of arguable merit.

Upon the foregoing, therefore,

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Pamela Moorshead is relieved from further representation of D.M.L. in these matters. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals