

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 9, 2026

Samuel A. Christensen
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. 2026AP1497

Cir. Ct. No. 2024TP101

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

**IN RE THE TERMINATION OF PARENTAL RIGHTS TO G.J.H., A PERSON UNDER
THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

E.L.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
JOSEPH R. WALL, Judge. *Affirmed.*

¶1 DONALD, C.J.¹ Emily appeals a circuit court order terminating her parental rights to her minor child, Gretchen.² Emily argues that the circuit court erroneously exercised its discretion when it found that termination was in Gretchen’s best interests, because the court failed to consider whether Gretchen had any substantial relationships with family members other than her parents, and whether it would be harmful to Gretchen if those relationships were severed. For the following reasons, we affirm.

BACKGROUND

¶2 In May 2024, the State filed a petition to terminate Emily’s parental rights to Gretchen. As grounds, the petition alleged that Gretchen was in continuing need of protection or services (continuing CHIPS) and that Emily had failed to assume parental responsibility for Gretchen. On January 6, 2025, Emily pled no contest to the continuing CHIPS ground. The disposition phase of the proceedings included testimony from multiple witnesses, including Emily’s mother (Gretchen’s maternal grandmother), Jennifer.

¶3 At disposition, Jennifer testified that she first met Gretchen at the hospital on the day that Gretchen was born. She stated that she visited Gretchen many times over the years, doing “things as grandmas and daughters and granddaughters do. Went to the zoo, went to the Dells ... normal grand-daughter-kid things.” While visitation between Jennifer and Gretchen had become

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.

² We refer to the family in this matter by pseudonyms to maintain confidentiality and privacy, in accordance with WIS. STAT. RULE 809.19(1)(g).

more limited in the several months leading up to disposition, Jennifer said that there was never an amount of time that she did not see Gretchen. Jennifer testified that, when Gretchen was first removed from the parental home in October 2021, she had gotten a bedroom ready for Gretchen in her house and remodeled it in anticipation of Gretchen being placed with her. However, Jennifer was ultimately unable to take placement of Gretchen when Emily's sister became ill and Jennifer was obligated to care for her instead.

¶4 Jennifer also testified that Gretchen called her "Grammy" and that she had remained active in Gretchen's life "because she's my granddaughter. I love my kids and I love my grandkids." Jennifer stated that she believed she had a substantial relationship with Gretchen and that it would be harmful if that relationship were severed.

¶5 Later in the disposition phase, when it summarized the testimony of the witnesses, the circuit court recounted:

[Gretchen] has a very good relationship with [Jennifer], but has only seen her one or two times in the previous six months from the testimony. [She] was considered for placement. She was not able to take [Gretchen] at that early time, and that [she] has her hands full, really. That was discussed regarding [Emily's] sister.

¶6 The circuit court then rendered its decision and discussed the best interests factors identified in WIS. STAT. § 48.426(3). The court characterized the third factor as "the question of whether [Gretchen] has a substantial relationship with [her mother] or [father]." The court noted that, while Gretchen had "no relationship" with her father, she had a substantial relationship and a strong bond with Emily, including "the emotional, psychological bonds that we would see in a normal, healthy parent-child relationship." However, the court stated that, overall,

this factor weighed in favor of termination, particularly in consideration of the efforts made by Gretchen’s foster parents to keep Emily involved in Gretchen’s life. The court stated that there would likely be impact, but not necessarily damage, to Gretchen if the relationship between her and Emily were severed. The court did not discuss at that particular point the relationships between Gretchen and other family members, or whether it would be harmful to Gretchen to sever those relationships.

¶7 After examining the remaining statutory factors, the circuit court ultimately decided that termination of Emily’s parental rights would be in Gretchen’s best interests. Emily now appeals.

DISCUSSION

¶8 Whether to terminate a parent’s rights is ultimately left to the circuit court’s discretion, because it depends on first-hand observation and experience with the witnesses and parties. See **Gerald O. v. Cindy R.**, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996). “A proper exercise of discretion requires the circuit court to apply the correct standard of law to the facts at hand.” **State v. Margaret H.**, 2000 WI 42, ¶32, 234 Wis. 2d 606, 610 N.W.2d 475. In reviewing a discretionary determination, this court will examine the record “to determine if the circuit court logically interpreted the facts, applied the proper legal standard, and used a demonstrated, rational process to reach a conclusion that a reasonable judge could reach.” **Brandon Apparel Group, Inc. v. Pearson Props., Ltd.**, 247 Wis. 2d 521, 530, 634 N.W.2d 544 (Ct. App. 2001).

¶9 In deciding whether to terminate a parent’s rights, “the best interests of the child is the paramount consideration” for the circuit court. **Margaret H.**,

234 Wis. 2d 606, ¶33. In determining the child’s best interests, the court “shall consider” six enumerated factors:

- (a) The likelihood of the child’s adoption after termination.
- (b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.
- (c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.
- (d) The wishes of the child.
- (e) The duration of the separation of the parent from the child.
- (f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child’s current placement, the likelihood of future placements and the results of prior placements.

WIS. STAT. § 48.426(3). In reviewing these factors, the circuit court must give “adequate consideration of and weight to each factor.” *Margaret H.*, 234 Wis. 2d 606, ¶35.

¶10 Emily’s argument concerns the third factor, which requires an examination of the emotional and psychological connections existing between the child and his or her birth family. *See id.*, ¶19. Emily argues that the circuit court erroneously exercised its discretion because it “failed to consider whether [Gretchen] had substantial relationships with family members other than her parents, and failed to consider whether it would be harmful to sever those relationships.” Emily takes issue with the fact that, when explaining its reasoning as to why this particular factor weighed in favor of termination, the court only discussed Gretchen’s relationships with her parents, failing to consider Gretchen’s

relationship with Jennifer and whether it would be harmful to Gretchen if that relationship were severed.

¶11 We disagree with Emily’s assertion that the circuit court erroneously exercised its discretion, as the record as a whole demonstrates that the circuit court adequately considered Gretchen’s relationship with Jennifer.

¶12 In addition to the testimony it heard from Jennifer herself, the circuit court also heard testimony at disposition from the ongoing case manager, who explained in detail why Jennifer was not reconsidered after a second trial reunification with Emily had failed, and testified that placing Gretchen with Jennifer at that point would not serve Gretchen’s best interests.

¶13 Additionally, counsel for Emily revisited Jennifer’s testimony during his closing argument, stating “you’ve heard from her extended family, you’ve heard from [Jennifer] ... how committed they are to the family unit and to [Emily].... There’s been a lot of testimony about the tightness of their family unit, although small, close.” Counsel also read into the record a letter from Jennifer to the circuit court, which acknowledged why Jennifer was unable to take placement of Gretchen and stated, “I absolutely think [Gretchen] will thrive in our family. We are small, but we are close. I feel if you would consider giving us more time, we can be with [Gretchen] more and make her coming back into our family more comfortable.”

¶14 The circuit court further heard closing argument from the State, which specifically addressed Jennifer’s relationship with Gretchen, and the concerns that arose after she was considered for placement. Counsel stated, “[Gretchen] does have a relationship with the maternal grandmother ... [who] was considered for placement ... [but] has lots of things going on in her life, given her

other daughter and her medical needs[.]” Counsel also argued that “there were concerns that grandma didn’t understand [Gretchen’s] needs.”

¶15 In explaining its decision, the circuit court began by summarizing the case and the evidence and testimony that had been presented. Before the court turned to the enumerated factors in WIS. STAT. § 48.426(3), the court explicitly discussed Gretchen and Jennifer’s relationship, stating:

[Gretchen] has a very good relationship with [Jennifer], but has only seen her one or two times in the previous six months from the testimony. [Jennifer] was considered for placement. She was not able to take [Gretchen] at that early time, and that [she] has her hands full, really. That was discussed regarding [Emily’s] sister.

The court also discussed testimony it had heard from another witness, a social services worker, who had stated that the “[m]aternal grandmother was very appropriate” and that the social services worker saw a bond there. In summarizing Emily’s counsel’s closing argument, the court stated,

And Attorney Lowenberg called [Jennifer], maternal grandmother. Talked about the visits, things going well. Her testimony about the first trial reunification.... Talked about family get-togethers. [Gretchen] is at home at those. Sounds like it’s a good-sized family. Do overnights, they go to hotels, they swim, they hang out. Some nice, small vacations. Talked about the second trial reunification. She saw [Gretchen] a number of times there.

The court then pointed directly to WIS. STAT. § 48.426(3) and the factors included therein. At that particular point in its decision, the court chose to focus on Gretchen’s relationships with her parents, and spoke in depth about the strong bond between Gretchen and Emily and the impact that severing that relationship would have on Gretchen.

¶16 While the circuit court did not, at that particular point in its decision, discuss Gretchen’s relationship with Jennifer, it is obvious—when the record is considered as a whole—that the court adequately considered that relationship in making its decision. As an aside, we also note that WIS. STAT. § 48.426(3)(c) does not explicitly require that the court consider each and every family member of the child in deciding whether the child has substantial relationships with them and whether it would be harmful to the child if those relationships were severed. The court chose, at that point in the hearing, to focus on Gretchen’s relationships with her parents; Emily fails to point to any controlling law which says the court cannot do so.

¶17 The circuit court is not required to use any “magic words” in rendering its decision, see **Michael A.P. v. Solsrud**, 178 Wis. 2d 137, 151, 502 N.W.2d 918 (Ct. App. 1993), yet that is what Emily’s argument amounts to. However, the record as a whole clearly demonstrates that the court had Gretchen’s relationship with Jennifer in mind when it made its decision and ultimately determined that termination of Emily’s parental rights was in Gretchen’s best interests.

CONCLUSION

¶18 For the aforementioned reasons, we affirm the circuit court’s order terminating Emily’s parental rights.

By the Court.—Order affirmed.

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

