

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**November 29, 2016**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

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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. 2016AP1413**

**Cir. Ct. No. 2015TP16**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**IN RE THE TERMINATION OF PARENTAL RIGHTS TO R.T.D.-T.,  
A PERSON UNDER THE AGE OF 18:**

**STATE OF WISCONSIN,**

**PETITIONER-RESPONDENT,**

**v.**

**T.R.D.,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for Milwaukee County:  
MARK A. SANDERS, Judge. *Affirmed.*

¶1 BRASH, J.<sup>1</sup> T.R.D. appeals an order terminating her parental rights to R.T.D.-T. T.R.D. makes the following arguments on appeal: (1) the circuit court erroneously exercised its discretion when it found T.R.D. to be an unfit parent; and (2) the circuit court erroneously exercised its discretion when it found that it was in the best interest of R.T.D.-T. that T.R.D.'s parental rights be terminated. We disagree and affirm.

### BACKGROUND

¶2 R.T.D.-T. was born on March 24, 2009. R.T.D.-T. came to the attention of the Bureau of Milwaukee Child Welfare (BMCW)<sup>2</sup> in August 2013, when her half-brother, P.N.D.-S., was taken into protective custody based on allegations that T.R.D. was mentally ill, homeless, and abusive. Subsequently, T.R.D. was detained and taken to the Milwaukee County Mental Health Complex under a Chapter 51 hold. After P.N.D.-S. was detained, the BMCW continued to evaluate the placement of R.T.D.-T. with her father, R.D.T.,<sup>3</sup> to determine whether that was a safe and suitable placement. Ultimately, the BMCW determined that

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2013-14). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted. Notwithstanding WIS. STAT. RULE 809.107(6)(e), we may extend the time to issue a decision in termination of parental rights cases. See *Rhonda R.D. v. Franklin R.D.*, 191 Wis. 2d 680, 694, 530 N.W.2d 34 (Ct. App. 1995). Due to the need to address the number of issues raised by the parties on appeal, on our own motion, we extend the decisional deadline in this appeal to the date of this decision.

<sup>2</sup> The Bureau of Milwaukee Child Welfare (BMCW) has since been renamed the Division of Child Protective Services. Because the agency was still the BMCW at the time of this proceeding, all references will be to the BMCW.

<sup>3</sup> The petition to terminate T.R.D.'s parental rights also sought termination of R.D.T.'s parental rights. The order terminating R.D.T.'s parental rights is the subject of a separate appeal, see *State v. R.D.T.*, No. 2016AP1412, unpublished slip op. (WI App Oct. 27, 2016), and is not at issue in the instant proceeding.

R.D.T. was unable to keep R.T.D.-T. safe and took R.T.D.-T. into temporary physical custody.

¶3 A child in need of protection or services (CHIPS) dispositional order was entered on July 7, 2014. The conditions of return were as follows:

Condition 1: Meet the following Goals for Behavioral Change.

Goal 1: [T.R.D.] verbalizes and demonstrates developmentally appropriate expectations for all her children, including developing and implementing an effective guidance and discipline system that does not include physical violence or threats of physical violence that takes into account her children's emotional and physical needs. [T.R.D.] is always in control of her emotions and actions. She expresses anger and frustration in a calm, non-violent, and non-impulsive manner and never uses physical discipline towards her children when she is overwhelmed or triggered. [T.R.D.] understands and can verbalize how her use of physical discipline affects her children's experience of being safe in her home and expresses concern for her children's past traumatic experiences.

Goal 2: [T.R.D.] cooperates and participates in the psychological evaluation and in the recommendations from the psychological evaluation. [T.R.D.] has a clear understanding of her thoughts and feelings and is able to manage her emotions and her moods so that she is able to actively intervene to ensure her children's basic and exceptional needs are met and protectively supervise her children. [T.R.D.] demonstrates stable emotional and behavioral functioning by learning how to effectively cope with her feelings and other psychological issues identified in her psychological evaluation and psychiatric evaluation. [T.R.D.] [is] able to implement learned coping strategies by receiving the appropriate medications at the correct therapeutic level and frequency. [T.R.D.] will sign releases in regards to her previous, and current mental health providers, in order to ensure she is getting the treatment required to manage her mental health.

Goal 3: [T.R.D.] is able to identify situations in parenting which causes heightened emotions and plans to leave her child in the care of a protective person while she copes and/or utilizes [her] learned coping skills to manage her emotions in a safe, calm, and appropriate manner when she is actively parenting her child. [T.R.D.] responds to unsafe situations and people quickly and appropriately including removing her family from the situation and

seeking outside support including but not limited to the police. [T.R.D.] is able to verbalize how verbal and physical aggressions witnessed by her children affect her children's experience of being safe and their emotional well-being. [T.R.D.] demonstrates an understanding of domestic violence, its effects on children, and has a plan to protect her children.

Goal 4: [T.R.D.] meets the basic needs of her children as well as herself. [T.R.D.] consistently provides each of her children with adequate, safe and clean housing; clean and appropriate bedding; clothing that is clean, weather appropriate, and properly sized; and access to a sufficient quantify of food at all times. [T.R.D.] provides adequate hygiene for each of the children and ensures that her children are enrolled and attending school on a regular basis.

Condition 2: All parents must maintain a relationship with your child/ren by regularly participating in successful visitation with the child/ren unless the parent's visits are limited by the court.

Condition 3: All parents must demonstrate an ability and willingness to provide a safe level of care for the child. A safe level of care is described as follows:

1. The parent demonstrates the ability to have a safe, suitable and stable home.
2. The parent does not abuse the child(ren) or subject them to the risk of abuse.
3. The parent demonstrates they are able and willing to care for the child(ren) and their special needs on a full-time basis.
4. The parent cooperates effectively with others needed to help care for the child(ren).
5. The parent must cooperate with the BMCW by staying in touch with their ongoing Case Manager, letting the ongoing Case Manager know their address and telephone number, and allowing the ongoing Case Manager into their home to assess the home for safety.

(some formatting changed).

¶4 On January 20, 2015, the State filed a petition to terminate the parental rights of T.R.D. to R.T.D.-T (Petition). The Petition alleged three

grounds for termination: (1) Continuing Need of Protection and Services, pursuant to § 48.415(2); (2) Failure to Assume Parental Responsibility, pursuant to § 48.415(6); and (3) Abandonment, pursuant to WIS. STAT. § 48.415(1)(a)3.

¶5 On July 27, 2015, T.R.D. waived her right to a jury for the fact-finding determination on the petition and the matters were scheduled to proceed to a trial to the court on that date. Following the testimony in the fact-finding hearing, the circuit court found grounds for termination of T.R.D.'s parental rights on each of the grounds alleged in the Petition. After further testimony was heard at the disposition hearing, the circuit court found it was in R.T.D.-T's best interest to grant the Petition to terminate T.R.D.'s parental rights. This appeal follows. More facts will be presented below.

#### DISCUSSION

¶6 On appeal, T.R.D. argues that: (1) the circuit court erroneously exercised its discretion when it found T.R.D. to be an unfit parent; and (2) the circuit court erroneously exercised its discretion when it found that it was in the best interest of R.T.D.-T. that T.R.D.'s parental rights be terminated. Specifically, T.R.D. argues that there was insufficient evidence to support the circuit court's findings and conclusions.

¶7 We will not overturn the circuit court's findings of fact unless they are clearly erroneous. *See* WIS. STAT. § 805.17(2); *see also State v. Pitsch*, 124 Wis. 2d 628, 634, 369 N.W.2d 711 (1985). A finding of fact is clearly erroneous when “it is against the great weight and clear preponderance of the evidence.” *State v. Arias*, 2008 WI 84, ¶12, 311 Wis. 2d 358, 752 N.W.2d 748 (citation omitted). We search the record for credible evidence supporting the verdict. *See Morden v. Continental AG*, 2000 WI 51, ¶38, 235 Wis. 2d 325, 611 N.W.2d 659.

We will not substitute our judgment for that of the factfinder unless the evidence is inherently or patently incredible. *See State v. Saunders*, 196 Wis. 2d 45, 54, 538 N.W.2d 546 (Ct. App. 1995). The “ultimate test is the same whether the trier of facts is a court or a jury.” *Bednarski v. State*, 53 Wis. 2d 791, 793, 193 N.W.2d 668 (1972). These principles apply to the sufficiency of the evidence reviews in TPR cases. *See Sheboygan Cnty. DHHS v. Julie A.B.*, 2002 WI 95, ¶27, 255 Wis. 2d 170, 648 N.W.2d 402. We view the evidence in the light most favorable to the verdict. *See Tammy W.-G. v. Jacob T.*, 2011 WI 30, ¶39, 333 Wis. 2d 273, 797 N.W.2d 854.

**I. The Circuit Properly Exercised Its Discretion When It Found There Were Grounds to Terminate T.R.D.’s Parental Rights to R.T.D.-T.**

¶8 T.R.D. argues that there was insufficient evidence to support the circuit court's findings on any of the three grounds alleged in the Petition: (1) Continuing Need of Protection and Services; (2) Failure to Assume Parental Responsibility; and (3) Abandonment. We discuss each in turn.

*A. Continuing Need of Protection and Services.*

¶9 To establish the ground of Continuing Need of Protection or Services, the State must prove that: (1) the child has been adjudged to be in need of protection or services and placed, or continued in a placement, outside of her home pursuant to one or more court orders; (2) the agency made a reasonable effort to provide the services ordered by the court; (3) the parent has failed to meet the conditions for the safe return of the child; and (4) there is a substantial likelihood the parent will not meet the conditions within the nine-month period following the fact-finding hearing. *See WIS. STAT. § 48.415(2); see also WIS. JI—CHILDRENS 324.*

¶10 T.R.D. concedes the first element—the child has been adjudged to be in need of protection or services and placed, or continued in a placement, outside of her home pursuant to one or more court orders. As such we need not address this element further.

i. The BMCW Made Reasonable Efforts.

¶11 To show that the agency made reasonable efforts to provide the services ordered by the court, the State must establish that the BMCW made “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 ... the level of cooperation of the parent ... and other relevant circumstances of the case.” WIS. STAT. § 48.415(2)(a)2.a.

¶12 The BMCW made numerous efforts to help T.R.D. achieve the behavioral changes necessary to complete the conditions of return. T.R.D. was referred for a parent aid and, when it was determined an aid would not be effective due to the inconsistent nature of visits, T.R.D. was referred to parenting classes. While T.R.D. provided certificates from Asha Family Services (Asha) for parenting and domestic violence counseling, she refused to sign any consents to allow the BMCW to communicate with Asha. Without the ability to communicate with Asha, the BMCW was unable to assess whether those certificates and classes were addressing the correct issues T.R.D. was confronting.

¶13 SaintA case manager Daniel Ohl, who was assigned the case on March 18, 2014, discussed therapy with T.R.D. throughout the CHIPS proceedings and made several referrals for therapy; T.R.D. did not participate. T.R.D. was also referred for several psychological evaluations and given a list of individual counselors. T.R.D. participated in the first part of the paperwork for the

psychological evaluation, but then missed the next thirteen appointments. T.R.D. was also provided a referral for domestic violence courses at the Sojourner Family Peace Center, but did not follow through with the referral. Furthermore, T.R.D. was referred to the Mental Health of America Program, a specialized program that could have provided her all the required services, but she did not participate.

¶14 BMCW attempted to provide supervised visitation with R.T.D.-T., however, that proved unsuccessful after T.R.D. was unable to control her emotions. T.R.D. had no visits with R.T.D.-T. between R.T.D.-T.'s removal in September 2013 and August 2014. T.R.D.'s visits were then stopped in January 2015 due, in part, to T.R.D.'s inability to control R.T.D.-T.'s behaviors. T.R.D. was informed that she needed to become involved in therapy to restart visits; T.R.D. did not take any steps to do so.

¶15 In evaluating reasonable efforts, we look in part to the parent's level of cooperation. *See* WIS. WIS. JI—CHILDRENS 324. Here, T.R.D. has a long track record of not cooperating. T.R.D. did not work with the parenting classes; she chose not to participate in therapy or the psychological evaluations; she did not complete domestic violence counseling; she did not cooperate with the Mental Health of America program; she did not cooperate with her Chapter 51 case managers; and she did not consistently take her medications or keep in touch with the Chapter 51 workers. The evidence shows that the BMCW took into account T.R.D.'s specific characteristics, but that she was not cooperative throughout the proceedings. As such, we find that there is sufficient credible evidence to establish that the BMCW made reasonable efforts to provide the services ordered by the court.



ii. T.R.D. Failed to Meet The Conditions For Return of R.T.D.-T.

¶16 To show that the parent failed to meet the conditions for the safe return of the child, we look to whether the conditions were met as of the filing of the Petition. *See* WIS. JI—CHILDRENS 324.

¶17 T.R.D. asserts that she had “met or [was] nearing completion” of each of the goals and conditions. By arguing that she was “nearing completion,” however, T.R.D. is in essence conceding that she had not completed the goals and conditions.

¶18 The goals and conditions needed to be met at the time the Petition was filed on January 20, 2015. T.R.D. had not made the necessary behavioral changes to meet the conditions by this deadline. Ohl witnessed T.R.D. experiencing mood escalation, anger, and aggressive conversations at the beginning of his time on the case and as recently as the week before trial. This demonstrates a lack of any behavioral change to control both her anger and her mental health issues. T.R.D. alleges she completed anger management, parenting, and domestic violence counseling through Asha. However, by refusing to sign consents, she made it impossible for the BMCW to monitor whether those programs met the requirements of the CHIPS conditions.

¶19 T.R.D. further asserts that, while she had not completed the psychological evaluation, she had started it. This assertion is misleading. While T.R.D. began the intake paperwork portion, she never met with an evaluator and missed the next thirteen appointments to complete the evaluation. T.R.D. never involved herself in any family or individual therapy throughout the duration of the CHIPS proceedings. While she worked with her Chapter 51 case managers at some points, T.R.D. stated on more than one occasion that she would not continue

working on services and would not take her medications. As of the time of the TPR trial, T.R.D. still denied having any mental health issues outside of PTSD.

¶20 Further, T.R.D. had no visits with R.T.D.-T. from the removal in September 2013 until August 2014, and then only had visits until January 2015. T.R.D. never had any unsupervised, overnight, or partially unsupervised visitations. Moreover, T.R.D. failed to demonstrate that she could care for R.T.D.-T. T.R.D. did not know the names of R.T.D.-T's dentist or therapist; had not attended any doctor, dentist, or therapist appointments since the removal; had never spoken to R.T.D.-T.'s therapist; and did not believe R.T.D.-T. had behavioral issues. This demonstrates that T.R.D. had not successfully completed her visitation condition or the conditions requiring her to be involved in R.T.D.-T.'s life. As such, we find that there was sufficient credible evidence to establish that T.R.D. failed to meet the conditions of return by the filing of the Petition.

iii. It Is Substantially Unlikely T.R.D. Would Meet The Conditions Within Nine-Months Following The Fact Finding Hearing.

¶21 Finally, to show that there is a substantial likelihood the parent will not meet the conditions within the nine-month period following the fact finding hearing, “a fact finder must necessarily consider the parent’s relevant character traits and patterns of behavior, and the likelihood that any problematic traits or propensities have been or can be modified in order to assure the safety of the children.” See *La Crosse Cnty. Dept. of Human Servs. v. Tara P.*, 2002 WI App 84, ¶18, 252 Wis. 2d 179, 643 N.W.2d 194; see also WIS JI—CHILDRENS 324

¶22 Once again, T.R.D. asserts that she had already met or was well on her way towards meeting each of the goals and conditions. As discussed above, however, this argument is contrary to the evidence adduced at trial.

¶23 Ohl testified that it was clear to him that T.R.D. had not made the necessary behavioral changes. This was evident through the continued aggressive behaviors T.R.D. showed through mood escalation, anger, and aggressive conversations. These behaviors were present when Ohl first met with T.R.D. and as recently as one week prior to trial. Furthermore, T.R.D. was showing the same amount of aggression and out of control behaviors at the hearing to extend her Chapter 51 order in July of 2015, where she was yelling, swearing, and denying having any mental illness. Particularly relevant was the fact that T.R.D. refused to acknowledge any mental health issues she was experiencing. Without acknowledging her own mental health issues, T.R.D. would never be able to move forward with appropriate treatment. Moreover, the circuit court noted that there had been at least nine occasions when T.R.D. failed to take her medications since April 2015. Collectively, this evidence demonstrates that T.R.D.'s mental health was not under control and that T.R.D. was not taking the appropriate steps to address those issues. As such, we find that there was sufficient credible evidence to establish that T.R.D. was substantially unlikely to meet her conditions within the nine-month period following the fact finding hearing.

¶24 Accordingly, we conclude that there was sufficient credible evidence to establish that R.T.D.-T. was a child in Continuing Need of Protection or Services.

*B. Failure to Assume Parental Responsibility.*

¶25 T.R.D. argues that there was insufficient evidence to establish the ground of failure to assume parental responsibility. We disagree.

¶26 Failure to assume parental responsibility is shown by “proving that the parent ... of the child [has] not had a substantial parental relationship with the

child.” See WIS. STAT. § 48.415(6)(a). “[S]ubstantial parental relationship’ means the acceptance and exercise of significant responsibility for the daily supervision, education, protection and care of the child.” Sec. 48.415(6)(b). We look to “whether the person has expressed concern for or interest in the support, care or well-being of the child, whether the person has neglected or refused to provide care or support for the child.” See *id.* We apply a totality of the circumstances approach in looking at the entire life of the child when evaluating a case. See § 48.415(6); see also *Tammy W.-G.*, 333 Wis. 2d 273, ¶22. We also consider whether the child was exposed to a hazardous living environment. See *id.* The statute only requires a showing that the parent has “not” had a substantial parental relationship, not that the parent has “never” had a substantial parental relationship. See *State v. Bobby G.*, 2007 WI 77, ¶¶86-89, 301 Wis. 2d 531, 734 N.W.2d 81.

¶27 In the present case, T.R.D. did almost nothing to be involved in R.T.D.-T.’s life after R.T.D.-T. was removed from the home. T.R.D. has not attended any of R.T.D.-T.’s doctor, dentist, or therapist appointments since the removal. T.R.D. did not know the names of R.T.D.-T.’s dentist or therapist, and T.R.D. had not spoken to any of R.T.D.-T.’s providers. T.R.D. had only five visits with R.T.D.-T. during the approximately twenty-two months since R.T.D.-T.’s removal. Following R.T.D.-T.’s removal, T.R.D. made no contact with R.T.D.-T. for over nine months and made no efforts to be in contact with the foster home or with R.T.D.-T.’s providers. Furthermore, immediately prior to R.T.D.-T.’s removal, she was living in a home with broken glass on the ground, boarded up doors, and drug activity occurring. Accordingly, we conclude that there was sufficient credible evidence to establish the ground of failure to assume parental responsibility.

C. *Abandonment.*

¶28 T.R.D. argues that there was insufficient evidence to establish the ground of abandonment. T.R.D. concedes that the State established T.R.D.’s lack of contact with R.T.D.-T. T.R.D., however, argues that she was justified in not visiting or communicating with R.T.D.-T. during the abandonment period due to the fact that she was under a Chapter 51 commitment. We disagree with T.R.D.’s analysis.

¶29 Once the State has established abandonment under WIS. STAT. § 48.415(1)(a)3, there exists a rebuttable presumption that shifts the burden to the parent to show “by a preponderance of the evidence that disassociation or relinquishment of responsibility for the child’s care and well-being has not occurred” *See Odd S.-G. v. Carolyn S.-G.*, 194 Wis. 2d 366, 369, 533 N.W.2d 794 (1995). As such, once T.R.D. conceded that she failed to visit or communicate with R.T.D.-T. for the abandonment period, the burden shifted to T.R.D. to prove, by a preponderance of the evidence, the following elements:

1. That [T.R.D.] had good cause for having failed to visit with [R.T.D.-T.] throughout the time period specified in par. (a)2. or 3., whichever is applicable.

2. That [T.R.D.] had good cause for having failed to communicate with [R.T.D.-T.] throughout the time period specified in par. (a)2. or 3., whichever is applicable.

3. If [T.R.D.] proves good cause under subd. 2, including good cause based on evidence that [R.T.D.-T.’s] age or condition would have rendered any communication with [her] meaningless, that one of the following occurred:

- a. [T.R.D.] communicated about [R.T.D.-T.] with the person or persons who had physical custody of [R.T.D.-T.] during the time period specified in par. (a)2. or 3., whichever is applicable, or, if par. (a)2. is applicable, with the agency

responsible for the care of the child during the time period specified in par. (a)2.

b. [T.R.D.] had good cause for having failed to communicate about [R.T.D.-T] with the person or persons who had physical custody of [R.T.D.-T.] or the agency responsible of [R.T.D.-T.] throughout the time period specified in par. (a)2. or 3., whichever is applicable.

WIS. STAT. § 48.415(1)(c).

¶30 T.R.D. failed to meet her burden. The only evidence T.R.D. presented on why she failed to communicate with R.T.D.-T. was that she was under a Chapter 51 commitment. However, there was no evidence as to how that would have affected T.R.D.'s ability to visit or communicate with R.T.D.-T. There was no evidence on when T.R.D.'s homelessness or hospitalizations occurred, or whether she had access to a phone or email while hospitalized. There was no evidence on how being hospitalized would have affected T.R.D.'s ability to communicate with R.T.D.-T. or the foster home. While there was evidence that T.R.D. was under a Chapter 51 commitment, any assumption on how that would affect her ability to visit or communicate with R.T.D.-T. is pure speculation. Speculation does not meet the burden of preponderance of the evidence. Accordingly, we conclude that there was sufficient credible evidence to establish the ground of abandonment.

In sum, therefore, we conclude that the circuit court did not erroneously exercise its discretion when it found that there were grounds to terminate T.R.D.'s parental rights to R.T.D.-T.

## II. The Circuit Court Properly Exercised Its Discretion When It Found That It Was In R.T.D.-T's Best Interest That T.R.D.'s Parental Rights Be Terminated.

¶31 T.R.D. further argues that there was insufficient evidence to support the circuit court's finding that termination of her parental rights was in R.T.D.-T.'s best interests. We disagree.

¶32 Dispositional hearings in TPR cases are governed by WIS. STAT. § 48.426(3). When considering the best interests of the child, the circuit court is required to consider the following 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.

*Id.* After consideration of these factors, the circuit court determines what is in the best interests of the child. *See Julie A.B.*, 255 Wis. 2d 170, ¶30.

¶33 In the present case, the circuit court examined each of the factors articulated in WIS. STAT. § 48.426(3). First, the circuit court considered the likelihood of adoption, finding that R.T.D.-T. was in the middle range of

adoptability due to her behavioral issues, but that she was highly likely to be adopted by E.H., R.T.D.-T.'s foster parent. Second, the circuit court addressed R.T.D.-T.'s age and health, finding that, beyond the behavioral issues, this factor would not be given much weight.

¶34 In considering the third factor—whether R.T.D.-T. has substantial relationships with the parent or other family members—the circuit court found that, while R.T.D.-T. had a substantial relationship with T.R.D., it was not a consistently positive relationship. While the circuit court noted that there would be some level of harm to severing that relationship, it also noted that there would be some level of benefit and that some of the triggers for R.T.D.-T.'s negative behaviors would no longer be present. The circuit court further noted that any harm that was experienced could be moderated by E.H.'s statement that she would allow future contact between T.R.D. and R.T.D.-T. if it was in R.T.D.-T.'s best interests.

¶35 In considering the fourth factor—R.T.D.-T.'s wishes—the circuit court noted that R.T.D.-T.'s wishes were to see T.R.D., but only if E.H. were present. R.T.D.-T. refers to E.H. as mom and refers to the siblings in her foster home as her siblings. The circuit court concluded that these statements show that R.T.D.-T. wished to remain in E.H.'s home.

¶36 In considering the fifth factor—the duration of the separation of T.R.D. from R.T.D.-T.—the circuit court noted that R.T.D.-T. was in out-of-home care for two years, two months, and twelve days according to the circuit court's calculation. The circuit court further noted that the separation was aggravated by the complete lack of contact T.R.D. had with R.T.D.-T. for extended periods of time.



¶37 In considering the sixth factor—whether R.T.D.-T. would be able to enter a more permanent and stable family relationship—the circuit court found that there was not a great likelihood of future placement with T.R.D. due to her ongoing mental health issues. Furthermore, the circuit court found that E.H. has provided calm and stability to R.T.D.-T. during the time that R.T.D.-T. was placed in E.H.’s home. The circuit court also noted that R.T.D.-T. only had one prior placement before her placement with E.H. and that this prior placement only lasted for approximately one month.

¶38 After considering the dispositional factors required by WIS. STAT. § 48.426(3), the circuit court considered other dispositional outcomes besides termination. First, the circuit court determined that continuing the CHIPS order was not in R.T.D.-T.’s best interests because, due to her behavioral issues, R.T.D.-T. needed a high degree of stability. The circuit court also considered a guardianship through a paternal aunt, H.M., but found H.M. inappropriate due to her lack of any current connection to R.T.D.-T. and the lack of a demonstrated ability to control R.T.D.-T.’s behavioral issues. Finally, the circuit court considered a guardianship with E.H. The circuit court found that while a guardianship with E.H. did have some benefits, it concluded that the inherent instability of a guardianship would not be in R.T.D.-T.’s best interests.

¶39 The circuit court properly applied each of the required factors and gave careful consideration to what was in R.T.D.-T.’s best interests. Based on the circuit court’s analysis, and our independent review of the record as a whole, we conclude that there was sufficient evidence to support the circuit court’s finding that termination of T.R.D.’s parental rights was in R.T.D.-T.’s best interests. Accordingly, we further conclude that the circuit court did not erroneously exercise its discretion in terminating those rights.

¶40 For the foregoing reasons, we affirm.

*By the Court.*—Order affirmed.

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

