

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 18, 2006

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. 2005AP898

Cir. Ct. No. 2002TP668

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

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

SHEILA T.,

APPELLANT,

V.

STATE OF WISCONSIN,

RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County:
MICHAEL G. MALMSTADT, Judge. *Affirmed.*

¶1 KESSLER, J.¹ Sheila T., the former foster parent of Patrick T., appeals *pro se* from an order denying her objection to a change in placement that removed Patrick from her home. The trial court concluded that it was in Patrick's best interests to remain placed with his current foster family, rather than to be returned to Sheila. We affirm the order.

BACKGROUND

¶2 Patrick was born in June of 2000 and was placed in foster care in Sheila's home eight days later. The parental rights of Patrick's biological parents were terminated on January 28, 2003.² Sheila, with whom Patrick had been placed for two and a half years, expressed interest in adopting Patrick.

¶3 Before a decision on the adoption could be made, however, Patrick was removed from Sheila's care on June 6, 2003, after it was alleged that Sheila had abused another foster child in her care, Eddie B. Patrick was placed in a foster care receiving home for two months, and then was placed with Lori and Robert C.

¶4 Immediately after Patrick was removed from her home, Sheila filed a letter with the trial court objecting to the change of placement; her objection was denied on July 3, 2003. Sheila retained counsel and filed a motion for rehearing that was adjourned several times as Sheila awaited a decision on her appeal of the determination of the Bureau of Milwaukee Child Welfare ("Bureau") that she had abused Eddie.

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

² The termination of those parental rights are not at issue in this appeal.

¶5 On March 9, 2004, an administrative law judge overturned the Bureau's finding that abuse had taken place. Subsequently, the foster care agency rescinded its intent to revoke Sheila's foster care license, and Sheila was again licensed as a foster parent.

¶6 The trial court conducted an evidentiary hearing on Sheila's motion for rehearing over three days: August 27, October 22 and December 3, 2004. The trial court heard testimony from Sheila, Lori, a police officer, two psychologists, a social worker and others. Testimony included evidence concerning the allegations that Sheila abused Eddie, as well as evidence of Patrick's progress in his new home.

¶7 The trial court concluded that it was in Patrick's best interests to remain placed with Lori and Robert. In doing so, the trial court acknowledged that the decision was not an easy one, as there was evidence that Sheila could once again become Patrick's caregiver if Patrick received appropriate therapy associated with his removal from his new caregivers. The trial court concluded that it was in Patrick's best interests to leave him placed in a home where he was flourishing, rather than to remove him and make him go through therapy to be reunited with Sheila.

¶8 The trial court acknowledged that Sheila loved Patrick, and noted its regret that Eddie had been placed in her care while Patrick's adoption was pending, as it added stress to the home. However, the trial court noted that it did believe that Sheila had abused Eddie, and that it was the Department of Health and Family Service's failure to adequately defend the Bureau's abuse determination before the administrative law judge that had led to a reversal of the substantiated

abuse finding.³ The trial court denied Sheila's objection to the change in placement and this appeal followed.

LEGAL STANDARDS

¶9 A foster parent can object to a change in a foster child's placement pursuant to WIS. STAT. § 48.64(4)(c), which provides in relevant part:

(4) ORDERS AFFECTING THE HEAD OF A HOME OR THE CHILDREN.

....

(c) The circuit court for the county where the child is placed has jurisdiction upon petition of any interested party over a child who is placed in a foster home, treatment foster home or group home. The circuit court may call a hearing, at which the head of the home and the supervising agency under sub. (2) shall be present, for the purpose of reviewing any decision or order of that agency involving the placement and care of the child. If the child has been placed in a foster home, the foster parent may present

³ The trial court's observations were based on testimony presented to it and not to the administrative law judge. Even the administrative law judge acknowledged numerous failures by the Department of Health and Family Services in its defense of the Bureau's determination that Sheila had abused Eddie:

The Department's case, as presented at [the] hearing, was extremely weak.... The Department representatives did not gather and present any original worker notes. A forensic examination was conducted of [Eddie]. Again, the Department representatives did not gather or present the results of the examination. A videotape interview was conducted with [Eddie]. The Department did not obtain or view the videotape. The Department did not present the videotape at [the] hearing....

....

The social worker that came to [Sheila's] home ... was not called as a witness at [the] hearing. The doctor who did the initial examination of [Eddie] was not called as a witness at [the] hearing.

relevant evidence at the hearing. The court shall determine the case so as to promote the best interests of the child.

¶10 Our review of a trial court's best interests determination presents a mixed question of fact and law. *In re Paternity of C.A.S.*, 161 Wis. 2d 1015, 1036-37, 468 N.W.2d 719 (1991). The trial court's findings of historical fact sustained on appeal unless they are clearly erroneous, but the ultimate conclusion of where the best interests lie is a matter of law that is reviewed *de novo*. *Id.* at 1037.

DISCUSSION

¶11 Sheila has appealed the trial court's order rejecting her objection to the change in placement. Sheila, who has proceeded *pro se* on appeal, filed a two-page opening brief and a one-page reply brief. Her opening brief contains the following arguments, in their entirety, precisely as written by Sheila:

The Bureau of Milwaukee Child Welfare did not follow their procedure and protocol. After removing [Eddie] from my care the [Bureau] decided to remove Patrick from the home even after seeing there was no need to do so.

There was evidence that was not allowed on my behalf in court such as Medical records, calling in Patricks Doctor as a witness, there were also visits That was to take place per the Judge but they were never followed through on.

I was told that the best interest of Patrick was at hand if so the courts never recognized that I was the only parent Patrick had ever Known. Wis. Stats 48.01

The first Three years of a childs life is very crucial.

A foster parent may present relevant evidence at the hearing Wis. Stats. 48.64(4)[(c).] Some of the evidence was denied.

I'm Begging the courts to please reconsider the ruling in this case I have AGAPE LOVE for Patrick.

There was one postponement after another in this case that's why it have taken so long.

Sheila's reply brief focuses solely on her assertion that the administrative law judge correctly concluded that she had not abused Eddie, pointing to a police officer's statement that Eddie had changed his story.

¶12 While some leniency may be given to *pro se* litigants on appeal, see *Wausara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992), this court is not required to sift the record for facts that support a party's contention, see *Keplin v. Hardware Mut. Cas. Co.*, 24 Wis. 2d 319, 324, 129 N.W.2d 321 (1964). Arguments not developed and only supported by general statements are inadequately presented and may be rejected. *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992). Applying these standards, Sheila's brief is clearly inadequate and may be rejected in its entirety. Nonetheless, this court will briefly address her arguments.

¶13 First, Sheila contends that the Bureau did not follow proper procedures and protocol when it removed Patrick from her home. She has not identified what the Bureau should have done differently, or how it affected the trial court's ultimate determination of Patrick's best interests. Without more information, we cannot begin to analyze Sheila's assertion.

¶14 Second, Sheila argues the trial court should have admitted Patrick's prior medical records. The State responds: "Sheila T. was allowed to call a variety of witnesses and present myriad evidence to the court during the [] hearing. The State is unclear how medical records of Patrick, given that there was no allegation of abuse of Patrick by Sheila T., would have been beneficial to the court." We agree that without more information about what records were not

allowed into evidence and an explanation of their relevance, there is no basis to conclude that the trial court erroneously exercised its discretion in the admission of evidence.

¶15 Third, Sheila argues that the trial court did not properly consider her role as Patrick's primary caregiver and begs this court for relief based on her love for Patrick. She also complains that some of the evidence she wanted to admit was denied, but does not identify what evidence that was. We reject her arguments. The transcripts indicate that the trial court devoted numerous hours to hearing testimony about Patrick and the roles of Sheila, Lori and Robert in his life. The trial court acknowledged that Sheila loved Patrick, and that she cared for him in the early years of his life. Likewise, this court has no reason to doubt Sheila's sincere love for Patrick. However, an adult's love for a child is not enough to make placement with that adult "in the best interests of the child." The trial court considered extensive evidence and ultimately determined that it was in Patrick's best interests to remain in a home where he had been living for over a year and was thriving, rather than require him to be removed and returned to Sheila. Sheila has not convinced this court that the trial court's determination was erroneous.

¶16 Finally, Sheila notes that there were numerous postponements in the case. All indications are that the postponements were due to her desire to pursue the administrative appeal of the Bureau's abuse finding, and then due to the need to have multiple hearings to give the parties an opportunity to fully present their case. The State notes that the trial court even continued taking testimony until 6:15 p.m. at the second hearing to keep the case moving. We discern no error in the proceedings, and no basis to overturn the order.

By the Court.—Order affirmed.

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

