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October 10, 2018

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

2018AP1630-NM

State of Wisconsin v. A. L. G. (L. C. No. 2016TP351)

Before Stark, P.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).

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

A.L.G. appeals from an order terminating his parental rights to his son. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. A.L.G. was served with a copy of the report and advised of his right to file a response. No response has been received from A.L.G. Based upon the no-merit report and an independent review of the circuit court record, this court concludes that no issue of arguable merit could be raised on appeal and affirms the order.

A.L.G.'s son was removed from his parent's home when he was six years old and after it was discovered that A.L.G. had severely abused the child's baby sister.² Approximately eight months after a determination that the child was in need of protection and services (CHIPS), a petition to terminate A.L.G.'s parental rights was filed. As grounds, the petition alleged the failure to assume parental responsibility and the continuing CHIPS placement. *See* WIS. STAT. § 48.415(2), (6). A.L.G. entered a no-contest plea to the continuing CHIPS ground. After a disposition hearing at which the social worker, foster mother, child's aunt, and A.L.G. testified, the circuit court found it was in the child's best interest to terminate A.L.G.'s parental rights.³

After the filing of a petition for termination of parental rights and the completion of preliminary matters, a contested termination proceeding involves a two-step procedure. *Sheboygan Cty. DHHS v. Julie A.B.*, 2002 WI 95, ¶24, 255 Wis. 2d 170, 648 N.W.2d 402. The first step is a fact-finding hearing that determines whether grounds exist to terminate the parent's rights. *Id.* If grounds for termination are found to exist, the circuit court must find that the

² A.L.G. was convicted of child abuse and sentenced to fifteen years of initial confinement and ten years of extended supervision. By the terms of his sentence, A.L.G. may not have contact with his son.

parent is unfit. *Id.*, ¶26. Here, A.L.G., by his no-contest plea, stipulated that grounds for termination existed, and the court found him unfit. The second phase is the dispositional phase. *Id.*, ¶28. In that phase, the court must determine whether the parent’s rights should be terminated. *Id.* The best interest of the child is the prevailing factor considered by the circuit court in making this decision. WIS. STAT. § 48.426(2). In determining the child’s best interest, the circuit court is required to consider the agency report and the factors enumerated in § 48.426(3). *Julie A.B.*, 255 Wis. 2d 170, ¶4. It may also consider other factors, including factors favorable to the parent. *Id.*

Counsel’s no-merit report addresses as potential appellate issues whether the circuit court met its obligations under WIS. STAT. § 48.422(7) in accepting A.L.G.’s no-contest plea to the continuing CHIPS ground, whether that plea was knowingly and voluntarily made, and whether the dispositional decision was an erroneous exercise of discretion or otherwise failed to consider the child’s best interest. Our review of the record confirms counsel’s conclusion that these potential issues lack arguable merit. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion, and we need not address them further.

Time limits set forth in WIS. STAT. ch. 48 for termination proceedings were not met in this case. However, continuances “upon a showing of good cause in open court” are allowed. WIS. STAT. § 48.315(2). Failure to object to a continuance forfeits any challenge to the court’s competency to act during the continuance. Sec. 48.315(3). Each time a hearing was continued or set beyond the statutory time limit, the circuit court found cause to extend the time limit and

³ By default, the mother’s parental rights were also terminated.

no objection was made. There is no arguable merit to any claim related to the failure to comply with the statutory time limits.

Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the order terminating A.L.G.'s parental rights, and discharge appellate counsel of the obligation to represent A.L.G. further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Carl W. Chesshir is relieved of any further representation of A.L.G. in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals