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DISTRICT I

November 27, 2019

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

2019AP1925-NM	In re the termination of parental rights to R.N., a person under the age of 18: State of Wisconsin v. T.N. (L.C. # 2018TP83)
2019AP1926-NM	In re the termination of parental rights to J.N., a person under the age of 18: State of Wisconsin v. T.N. (L.C. # 2018TP84)

Before Brash, 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)(e) (2017-18). All references to the Wisconsin statutes are to the 2017-18 version unless otherwise noted.

T.N. appeals from orders terminating his parental rights to his two sons. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32 and *Brown Cty. v. Edward C.T.*, 218 Wis. 2d 160, 579 N.W.2d 293 (Ct. App. 1998). T.N. was served with a copy of the report and advised of his right to file a response. He has not filed a response. Based on our review of the no-merit report and our independent review of the circuit court records as required by *Anders v. California*, 386 U.S. 738 (1967), this court concludes that no issue of arguable merit could be raised on appeal and affirms the orders. *See* WIS. STAT. RULE 809.21.

T.N.'s children were removed from their parents' care on April 9, 2017. Upon a finding that the children were in need of protection and services (CHIPS), the children were placed outside the parental home on July 27, 2017. The petitions for the termination of T.N.'s parental rights were filed April 27, 2018, and alleged that the children were continuing CHIPS and that T.N. had failed to assume parental responsibility. *See* WIS. STAT. § 48.415(2) and (6).

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 which 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 parent is unfit. *Id.*, ¶26.

The second phase is the dispositional phase. *Id.*, ¶28. 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 best interests of the children, 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 is also entitled to consider other factors, including factors favorable to the parent. *Id.*

At the grounds phase of the proceedings, T.N. pled no contest to the continuing CHIPS ground for termination. As the no-merit report discusses, the plea was taken in a manner that complied with WIS. STAT. § 48.422(7). In addition, the circuit court heard testimony to support this ground for termination, and that evidence was sufficient to establish each element.² There is no arguable merit to a claim to withdraw this plea.

The no-merit report also addresses whether the circuit court erroneously exercised its discretion at the disposition phase by ordering T.N.'s parental rights terminated. The circuit court's decision sufficiently considered the factors provided in WIS. STAT. § 48.426, and the court reached a reasonable decision. There is no arguable merit to a claim that the decision was an erroneous exercise of discretion.

The no-merit report considers whether any statutory time limit impermissibly lapsed and points out that time limits were tolled for good cause. The records confirm that time limits were appropriately tolled. No issue of arguable merit exists relating to time limits.

² As the no-merit report notes, in determining the factual basis for T.N.'s plea, the circuit court used the standard that "there is a substantial likelihood that the parent will not meet these conditions [of return] within the 9-month period following the fact-finding hearing" WIS. STAT. § 48.415(2)(a)3. (2015-16). The court did not apply the arguably less burdensome standard adopted by 2017 Wis. Act 256, effective April 6, 2018, that does not require any proof that the parent will not meet conditions for return unless the child has been outside the home for less than fifteen of the most recent twenty-two months.

Overall, 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. Our review of the records discloses no other potential issues for appeal. Therefore,

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

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of T.N. in these matters. *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