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

2020AP863-NM

In the interest of D.K., a person under the age of 18: State of
Wisconsin v. I.P.K. (L.C. # 2019TP87)

Before Dugan, J.¹

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.

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).

I.P.K. (pseudonym, “Ida”)² appeals from an order involuntarily terminating her parental rights (TPR) to her non-marital child, D.K.³ Ida’s appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. Ida received a copy of the report and was advised of her right to file a response but has not done so. After considering the no-merit report and independently reviewing the record as required by *Anders v. California, 386 U.S. 738 (1967)*, we conclude there are no issues with arguable merit for appeal. Accordingly, we summarily affirm the order. *See* WIS. STAT. RULE 809.21.

D.K. is one of Ida’s six children, none of whom are in her care. D.K. was found to be to be a child in need of protection or services (CHIPS) shortly after birth. Soon after birth, he was placed in the foster home that cares for one of Ida’s other children, and has remained there since that time.⁴ On May 23, 2019, the State petitioned for a TPR alleging continuing CHIPS, *see* WIS. STAT. § 48.415(2), for Ida’s failure to meet the conditions of return, and failure to assume parental responsibility, *see* § 48.415(6), and for Ida’s failure to establish a substantial parental

² *See* WIS. STAT. RULE 809.81(8).

³ The State also petitioned for the involuntary termination of the adjudicated father’s parental rights. His case is not before us.

⁴ D.K. was born on January 9, 2018. At one point the petition alleges that he was removed from Ida’s home on May 22, 2018, the date of the court order; at another point, it says that the Department of Milwaukee Child Protective Services detained him at the hospital until he was two days old then placed him in foster care. He has continuously lived in the foster home since that time. While the May 22, 2018 court order, which is not in the record, officially removed him from Ida’s home, the hearing transcript supports the earlier date of foster home placement.

relationship with D.K., as she had not accepted and exercised significant responsibility for his daily supervision, education, protection, and care. *See id.*

Ida waived her statutory right to a jury trial. On February 10, 2020, the matter proceeded to a fact-finding hearing to the court. Six witnesses, including two family case managers, a former case manager, a psychologist, and Ida herself, testified at the fact-finding hearing. In part the testimony revealed that: Ida has a full-scale IQ of 53 and a first-grade reading level, so those working with her attempted to work around her limitations with verbal, rather than written, instructions; none of Ida's children live with her and she never had been the primary caregiver for any of them; she never progressed beyond fully supervised visits with D.K.; Ida did not consistently attend the visits, and, even under supervision, concerns were raised about her ability to parent; Ida did not arrange D.K.'s medical and various therapy appointments, attending just one of his speech and occupational appointments, and none of his physical therapy appointments; Ida stopped attending her own individual therapy appointments soon after starting; Ida was evicted from several residences, some infested with roaches and mice; Ida continued a relationship with a man accused of molesting one of her daughters and did not seek therapy for the girl; Ida did not consistently attend parenting services, and ultimately refused to continue; Ida rebuffed the case manager's suggestions that Ida contact her landlord or other community resources regarding pest infestation and WE Energies about getting on a payment plan when her electricity was turned off due to non-payment; and she refused to give her case worker her new phone number.

After taking evidence over two days, the court found that the State had established grounds on both allegations and entered a finding of unfitness. On February 12, it entered an order terminating Ida's parental rights. This no-merit appeal followed.

Wisconsin has a two-part statutory procedure for an involuntary TPR. *Steven V. v. Kelley H.*, 2004 WI 47, ¶24, 271 Wis. 2d 1, 678 N.W.2d 856. In the grounds phase, the petitioner must prove by clear and convincing evidence that at least one of the twelve grounds enumerated in WIS. STAT. § 48.415 exists. *See* WIS. STAT. § 48.31(1); *Steven V.*, 271 Wis. 2d 1, ¶¶24-25. In the dispositional phase, the court must decide if it is in the child's best interest that the parent's rights be permanently extinguished. WIS. STAT. § 48.426(2); *Steven V.*, 271 Wis. 2d 1, ¶27.

Counsel's no-merit report considers whether (1) the court adhered to mandatory time limits for holding the initial hearing, the fact-finding hearing, the dispositional hearing, and entry of the disposition, *see* WIS. STAT. §§ 48.422(1) and (2), 48.424(4), and 48.427(1); (2) the jury waiver was properly accepted; (3) the evidence was sufficient to prove Ida an unfit parent; (4) Ida's substantive due process rights were violated because she was unable to meet the return conditions due to her cognitive limitations, which included her full-scale IQ of 53; (5) there are any issues relating to disposition, *see* WIS. STAT. § 48.427.

This court is satisfied that the no-merit report properly and thoroughly analyzes these potential issues to support the no-merit issues that it raises and its conclusion. Based on our independent review of the record, we agree with appellate counsel's assessment that there would be no arguable merit to pursuing any of those issues. We will not further discuss those issues.

Our review of the record discloses no other potential issues for appeal. We, therefore, accept the no-merit report, affirm the order terminating Ida's parental rights to D.K., and discharge appellate counsel of the obligation to represent Ida 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 Steven W. Zaleski is relieved of any further representation of I.P.K. 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