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DISTRICT IV

July 23, 2020

To:

Hon. Michael A. Haakenson
Circuit Court Judge
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You are hereby notified that the Court has entered the following opinion and order:

2019AP1927-NM	In re the termination of parental rights to O. R.: a person under the age of 18: Rock County Department of Human Services v. J. R. (L.C. # 2018TP47)
2019AP1928-NM	In re the termination of parental rights to A. R.: a person under the age of 18: Rock County Department of Human Services v. J. R. (L.C. # 2018TP48)

Before Nashold, 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 These appeals are 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.

Attorney Patricia O'Neil, appointed counsel for J.R., has filed a no-merit report pursuant to WIS. STAT. RULE 809.107(5m). Counsel provided J.R. with a copy of the report, and both counsel and this court advised him of his right to file a response. J.R. has not responded. After my independent review of the records, I conclude that there is no arguable merit to any issue that could be raised on appeal.

The no-merit report first addresses whether the evidence was sufficient to find grounds for termination of parental rights. We affirm if there is any credible evidence on which the jury could find that the petitioner proved an alleged ground by clear and convincing evidence. *Sheboygan Cty. DHHS v. Tanya M.B.*, 2010 WI 55, ¶¶49-50, 325 Wis. 2d 524, 785 N.W.2d 369.

There is no arguable merit to this issue. One of the grounds for termination found by the jury was that J.R. failed to assume parental responsibility for the children. Without attempting to recite the evidence in detail here, the testimony of the witnesses was not inherently incredible and, if believed, was sufficient to support the verdict. In particular, J.R. testified that both children were removed from his care at birth and had been in foster care since then.

The no-merit report also addresses whether the petitioner proved the continuing CHIPS ground for termination. I need not address this issue because only one ground is necessary for termination. *See* WIS. STAT. § 48.415.

The no-merit report addresses whether J.R.'s attorney was ineffective by not raising J.R.'s assertion that he still needed more time for visits with his daughters. At the grounds phase of the proceeding, the main relevance of that argument would have been to the continuing CHIPS ground. A need for more visits would not be a significant fact related to the ground of

failure to assume parental responsibility. Accordingly, it would be frivolous to argue that counsel was ineffective by not raising this issue at the grounds phase.

Similarly, at the dispositional phase, the focus is on the best interest of the child. *See* WIS. STAT. § 48.426(2). A need for more visits by a parent would not be a significant consideration at this stage of the proceeding.

The no-merit report does not address whether the court erroneously exercised its discretion by ordering termination of J.R.'s parental rights in the dispositional phase. However, there is no arguable merit to this issue. The court considered appropriate factors and reached a reasonable decision.

In my order of February 5, 2020, I ordered J.R.'s attorney to address the circuit court's decision to allow the foster father to attend the fact-finding hearing. Based on counsel's response, I am satisfied that this decision was proper under WIS. STAT. § 48.299(1)(ag), even though that was not the statute that the circuit court considered in making its decision. There is no arguable merit to this issue.

My review of the records discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Patricia O'Neil is relieved of further representation of J.R. 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