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DISTRICT I

January 29, 2026

To:

Hon. Laura Gramling Perez
Circuit Court Judge
Electronic Notice

Tammy Kruczynski
Juvenile Clerk
Milwaukee County Courthouse
Electronic Notice

Katie L. Gutowski
Electronic Notice

David Malkus
Electronic Notice

H.L.C., III
C/o David Malkus

Division of Milwaukee Child Protective
Services
Charmian Klyve
635 North 26th Street
Milwaukee, WI 53233-1803

Courtney L.A. Roelandts
Electronic Notice

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

2025AP2100-NM In re the termination of parental rights to H.L.C., IV, a person
under the age of 18: State of Wisconsin v. H.L.C., III
(L.C. # 2021TP50)

Before Donald, 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).

H.L.C., III (referred to herein by the pseudonym Hector), appeals a circuit court order terminating his parental rights to H.L.C., IV (referred to herein by the pseudonym Leo). Hector's appellate counsel, Attorney David Malkus, filed a no-merit report pursuant to WIS.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

STAT. RULE 809.107(5m), WIS. STAT. RULE 809.32, and *Anders v. California*, 386 U.S. 738 (1967). At our direction, Attorney Malkus also filed a supplemental no-merit report to address a transcript that was belatedly prepared. Hector received a copy of each report and has not filed a response.² Upon consideration of the no-merit reports and an independent review of the record as mandated by *Anders*, this court concludes that there are no arguably meritorious issues that could be pursued on appeal. Therefore, we summarily affirm the order terminating Hector's parental rights.³ See WIS. STAT. RULE 809.21.

The State filed a petition on February 24, 2021, seeking to terminate Hector's parental rights to Leo, born February 3, 2018.⁴ The State alleged that on December 6, 2019, a judge in the Children's Division of the Milwaukee County Circuit Court found that Leo was a child in need of protection or services (CHIPS), and had placed him outside Hector's home pursuant to an order that included the written warnings required by WIS. STAT. § 48.356(2), regarding possible termination of parental rights. The State then asserted three grounds for termination of Hector's parental rights: (1) failure to assume parental responsibility, *see* WIS. STAT. § 48.415(6); (2) continuing CHIPS, *see* § 48.415(2)(a)3.; and (3) abandonment, *see* § 48.415(1)(a)2.

² This court's practice is to give notice of response deadlines to parents pursuing appeals under WIS. STAT. RULE 809.107(5m). In this case, our notices to Hector were returned to us undeliverable. Attorney Malkus then advised us that Hector did not have a current mailing address but that Attorney Malkus could reach Hector and was providing him with copies of documents. We directed Attorney Malkus to notify us of a mailing address for Hector as soon as such an address was available. Counsel has not provided us with an updated mailing address for Hector as of the date of this decision.

³ Due to the need for a supplemental no-merit report and a delay in providing Hector with certain materials to which he is entitled under WIS. STAT. RULE 809.107(5m), we extended Hector's deadline for filing a response to the no-merit report. Counsel filed a document certifying that he had advised Hector of the extended deadline. That deadline passed without action on January 2, 2026.

⁴ The petition also sought to terminate the parental rights of Leo's biological mother, S.H. The order terminating S.H.'s parental rights is not before us in this appeal.

In support of termination, the State alleged that an initial assessment worker with the Division of Milwaukee Child Protective Service (DMCPS) received a report in July 2018 that Leo was a child in distress, and the worker assisted Leo's mother in bringing Leo to the hospital. There, medical personnel determined that Leo weighed only nine pounds and was severely malnourished. Hector came to the hospital during Leo's stay, insisted that Leo required only water, and disabled his IV. Hector also stated that the hospital had placed a microchip in Leo's brain and discussed how he would remove the chip when the child left the hospital. The State took temporary physical custody of Leo.

The State further alleged that after Leo was discharged from the hospital to a foster placement, Hector did not participate in any medical appointments or professional care for Leo, asserted that Leo should fast rather than eat, failed to visit regularly with the child, and ceased contact with Leo after November 2020.

The circuit court that originally presided over the termination-of-parental-rights case entered a default judgment against Hector and terminated his parental rights on May 30, 2023. Following post-disposition litigation, a successor circuit court vacated the default judgment and the termination order.⁵ On March 24, 2025, the case proceeded to a jury trial on the question of whether grounds existed to terminate Hector's parental rights. The jury found that the State proved all three grounds alleged. The court found that Hector was an unfit parent and, following

⁵ The Honorable Laura Gramling Perez granted relief from the May 30, 2023 order and presided over the subsequent circuit court proceedings. Throughout the remainder of this opinion, we refer to Judge Gramling Perez as the circuit court.

a dispositional hearing, determined that termination of Hector's parental rights was in Leo's best interests.

In the no-merit reports, appellate counsel examines a variety of issues including: the circuit court's competency to proceed and adherence to statutory deadlines; whether the court properly exercised its discretion by denying a motion to adjourn the jury trial; the court's resolution of the parties' motions *in limine*; the court's evidentiary rulings during the jury trial; and whether Hector's trial counsel was ineffective. This court's review confirms appellate counsel's conclusion that these issues lack arguable merit. We will not address them further.

Appellate counsel also examines whether the evidence that the State presented to the jury was sufficient to establish grounds for terminating Hector's parental rights. We agree that Hector could not raise an arguably meritorious challenge to the sufficiency of the evidence. When reviewing the sufficiency of the evidence, we consider that evidence in a light most favorable to the jury's verdict. ***Tammy W-G. v. Jacob T.***, 2011 WI 30, ¶39, 333 Wis. 2d 273, 797 N.W.2d 854. "Moreover, if there is any credible evidence, under any reasonable view, that leads to an inference supporting the jury's finding, appellate courts will not overturn that finding." ***State v. Quinsanna D.***, 2002 WI App 318, ¶30, 259 Wis. 2d 429, 655 N.W.2d 752 (citation modified).

Before the jury could find that Hector had failed to assume parental responsibility, the State was required to prove by evidence that was clear, satisfactory, and convincing, to a reasonable certainty, that Hector had not had a substantial parental relationship with Leo. *See* WIS. STAT. § 48.415(6); WIS JI—CHILDREN 346. In this context, "'substantial parental relationship' means the acceptance and exercise of significant responsibility for the daily

supervision, education, protection and care of the child,” and the factfinder may consider, among other factors, “whether the person has neglected or refused to provide care or support for the child.” Sec. 48.415(6).

Here, the DMCPS initial assessment worker testified that she encountered Hector for the first time while Leo was hospitalized in 2018. When Hector arrived at the hospital, he objected to feeding Leo and removed his IV, stating that the child required only iodized water. Hector also indicated that he “didn’t know if he wanted to take the child back” because Hector believed that the hospital had placed a chip in Leo’s head. The DMCPS worker went on to describe Hector’s statements that he would remove the chip if he brought the child home.

The State further presented testimony from a case manager who worked with the family from August 2018, after Leo was taken into protective custody, until January 2019. The case manager testified that throughout her involvement with the family, Hector had only supervised visits with Leo and provided nothing for him except a pack of diapers. The case managers who subsequently worked with the family testified that Hector never had unsupervised visits with Leo; had only limited and occasional supervised visits that ceased in 2020; and that Hector did not schedule or attend Leo’s medical and dental appointments. Hector himself testified that he only “got [Leo] some clothes here and there, not any money directly.” Hector also admitted that he did not have any contact with Leo’s daycare providers or his teachers and that someone else had been responsible for Leo’s care since Leo was six months old. The testimony, if believed by the jury, was sufficient to establish that Hector failed to assume parental responsibility for Leo. *See WIS. STAT. § 48.415(6); WIS JI—CHILDREN 346.* A challenge to the jury’s verdict on this issue would be frivolous within the meaning of *Anders*.

We further conclude that Hector could not mount an arguably meritorious challenge to the circuit court's finding that he was an unfit parent. "If grounds for the termination of parental rights are found by the court or jury, the court shall find the parent unfit." WIS. STAT. § 48.424(4). Further pursuit of this issue would be frivolous within the meaning of *Anders*.

In the no-merit reports, appellate counsel reviews not only the evidence that supports the jury's verdict of failure to assume parental responsibility but also the evidence that supports the jury's verdicts of continuing CHIPS and abandonment. Counsel concludes that the evidence was sufficient to support all three verdicts. We will not discuss here whether the State proved continuing CHIPS and abandonment. We have already determined that Hector could not mount an arguably meritorious challenge to the jury's finding that Hector failed to assume parental responsibility and that the circuit court therefore properly found that he was an unfit parent. When a reviewing court upholds a finding of parental unfitness on one statutory ground, the reviewing court need not address alternative grounds. *Waukesha Cnty. DHHS v. Teodoro E.*, 2008 WI App 16, ¶24, 307 Wis. 2d 372, 745 N.W.2d 701.

We next consider whether Hector could mount an arguably meritorious challenge to the circuit court's decision to terminate his parental rights. The decision to terminate parental rights lies within the circuit court's discretion. *See Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996). The prevailing factor is the child's best interests. *See* WIS. STAT. § 48.426(2). In considering the best interests of the child, a circuit court must consider:

- (a) The likelihood of the child's adoption after termination.
- (b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.

(c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.

(d) The wishes of the child.

(e) The duration of the separation of the parent from the child.

(f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

Sec. 48.426(3).

At the dispositional hearing in this case, the State presented testimony from a social worker, from the then-current case manager for the family, and from Leo's foster mother. Hector testified on his own behalf and presented testimony from a clinical psychologist. At the conclusion of the testimony, the circuit court considered each of the statutory factors in light of the evidence presented.

The circuit court first found that Leo's foster mother was committed to adopting Leo and that the likelihood of adoption was "very high." The court next found that, although Leo had been "almost fatally underweight" when taken into protective custody in 2018, he was "healthy" and "thriving" in his foster placement. The court also found that Leo, now seven years old, had expressed a preference to remain with his foster mother.

The circuit court next found that Leo and Hector had been separated for a "very substantial" period of time. Leo had not lived with Hector since Leo was not quite six months old, and the two had not had any contact for "many years." The court further found that Leo had had some contact with a biological sister and with his paternal grandmother but that those relationships were not substantial and therefore severing them would not be harmful.

Finally, the circuit court found that terminating Hector's parental rights would permit Leo to enter into a more stable and permanent family relationship. The court took into account that Leo "doesn't know or understand who his biological father is" and that Leo was bonded with his foster mother and integrated into her family. The court concluded that, in light of the statutory factors, consideration of Leo's best interests required terminating Hector's parental rights.

Based on an independent review of the record, we conclude that no additional issues warrant discussion. Any further proceedings would lack arguable merit.

Therefore,

IT IS ORDERED that the order terminating Hector's parental rights is summarily affirmed. *See WIS. STAT. RULE 809.21.*

IT IS FURTHER ORDERED that, as soon as practicable, Attorney David Malkus shall provide Hector with a copy of this decision and order and, within three days thereafter, Attorney Malkus shall file a document in this court certifying that he has done so.

IT IS FURTHER ORDERED that, if Attorney Malkus is unable to provide Hector with a copy of this order despite reasonable efforts to do so, he shall so notify this court in writing within 21 days after the date of this order.

IT IS FURTHER ORDERED that Attorney Malkus is relieved of any further representation of Hector effective on the date that he files a document in this court certifying that he has provided Hector with a copy of this decision and order; or, if Attorney Malkus is unable to provide Hector with a copy of this decision and order despite reasonable efforts to do so, then effective on the date that Attorney Malkus so notifies this court. *See WIS. STAT. RULE 809.32(3).*

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

Samuel A. Christensen
Clerk of Court of Appeals