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**DISTRICT I**

February 6, 2026

*To*:

Hon. Joseph R. Wall
Circuit Court Judge
Electronic Notice

Tammy Kruczynski
Juvenile Clerk
Milwaukee County Courthouse
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Olivia Garman
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Division of Milwaukee Child Protective Services
Charmian Klyve
635 North 26th Street
Milwaukee, WI 53233-1803

E.F.

Courtney L.A. Roelandts
Electronic Notice

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

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2024AP780-NM In re the termination of parental rights to D.F., a person under the age of 18: State of Wisconsin v. E.F. (L.C. # 2021TP255)

Before Colón, 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).**

E.F. appeals an order involuntarily terminating her parental rights (TPR) to her child D.F. E.F.'s appointed appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES

[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. To the extent that the 30-day time limit in WIS. STAT. RULE 809.107(6)(e) applies, we extend the deadline on our own motion to the date this decision is issued. *See* WIS. STAT. RULE 809.82(2)(a).

809.107(5m) and 809.32, as well as ***Anders v. California***, 386 U.S. 738 (1967). E.F. has filed a response.[2] After considering the no-merit report and response, and following an independent review of the appellate record, we conclude there are no issues of arguable merit for review. Accordingly, we summarily affirm. *See* WIS. STAT. RULE 809.21.

D.F. was found to be a child in need of protection or services (CHIPS) in December 2019. A dispositional order was entered placing D.F. outside the home in a placement approved by the Division of Milwaukee Child Protective Services. At the disposition hearing, there was testimony establishing that E.F. and the foster parent had a "family[-]arranged plan" preexisting the removal under which D.F. would live with the foster parent.[3]

The State filed the TPR petition on November 9, 2021, alleging as grounds continuing CHIPS and failure to assume parental responsibility. At the hearing on the petition on December 8, 2021, E.F. appeared with counsel and acknowledged receiving a copy of the petition. The circuit court explained the TPR process as encompassing a grounds phase and a disposition phase, with additional explanation about what each of those phases entailed and the parents' rights attendant to them. E.F. denied the allegations and the matter was set for a grounds-phase trial.

[2] The response does not appear to contain legal argument, but rather is a request for information about the children's health, adoption status and general outlook. This court does not have information about those matters beyond what is contained in the appellate record, and we encourage E.F. to contact her attorney with requests for current information.

[3] It appears the foster parent was a family friend and did not have any identifiable biological relationship to E.F. The TPR proceedings soured the personal relationship between E.F. and the foster parent and impaired their ability to communicate productively.

The trial date was adjourned at E.F.'s request to conduct additional discovery. E.F. subsequently entered a no-contest plea to the ground of continuing CHIPS. The circuit court engaged E.F. in a thorough colloquy, during which E.F. confirmed she understood that the disposition was a separate proceeding at which the best-interest-of-the-child standard would control, that the State bore the burden of proof in the grounds phrase by clear and convincing evidence, and that the State would have to prove three elements, which the court also explained. The court also requested that E.F. confirm her age, education level, mental state, understanding of the proceedings and understanding of the rights she was foregoing by entering a no-contest plea. The court accepted E.F.'s plea and, at a separate prove-up hearing, concluded that the State had established the elements of the continuing CHIPS ground for termination.

The circuit court held a two-day disposition hearing in September 2023, at which it received testimony from D.F.'s case manager since 2021, who the court found "very, very credible." The case manager testified that E.F. was not consistent with visitation—at one point going months between visits—and was a "great playmate" for D.F. but not functioning as a parent for him. Visits had not progressed to overnights or extended visitation, and the case manager testified that E.F. was unable to keep D.F. safe, citing domestic violence concerns surrounding individuals in E.F.'s life and one instance in which E.F. was heating her residence with her oven. The case manager opined that E.F. was not making the necessary changes to safely return D.F. to her care and that, given E.F.'s cognitive limitations, she did not believe that E.F. would be able to make those changes in the future.

Ultimately, the circuit court concluded that termination was in D.F.'s best interests. The court recognized that although there were very good arguments for allowing the case to pend for six or more months, doing so would likely not lead to a different outcome. D.F. was bonded

with his foster parent and adoption was likely, although the court had some concerns about D.F. having periods of removal from the foster parent in the past. The court identified no aspects of D.F.'s age or health that would be materially affected by termination or that would diminish the prospects of adoption. The court further found that D.F. did not have a substantial relationship with E.F. or with his siblings that would be affected by the termination. Finally, the court found that the duration of D.F.'s separation from E.F. favored termination, as did the likelihood that D.F. would remain in the foster care system until adulthood if termination was not ordered.

E.F., by trial counsel, filed a notice of intent to pursue postdisposition relief. E.F. appealed, raising in her brief the sole issue of the burden of proof at disposition. The State and the guardian *ad litem* jointly petitioned the Wisconsin Supreme Court for bypass and consolidation with ***State v. H.C.***, 2025 WI 20, 416 Wis. 2d 233, 21 N.W.3d 330. The supreme court denied consolidation but held the bypass petition in abeyance pending the disposition of ***H.C.*** After the decision in that case issued resolving the question of the burden of proof at disposition, the supreme court denied bypass and the matter was converted to a no-merit appeal.

The no-merit report addresses whether the circuit court complied with all mandatory time limits, including the 30-day time limit for holding an initial hearing, *see* WIS. STAT. § 48.422(1), the 45-day time limit for holding a fact-finding hearing, *see* § 48.422(2), and the 45-day time limit for holding a dispositional hearing, *see* WIS. STAT. § 48.424(4). Throughout the proceedings, the circuit court found good cause to toll the relevant time periods. In any event, objections to competency are forfeited if not raised, and the failure by the court to act within any of WIS. STAT. ch. 48's designated time periods "does not deprive the court of personal or subject matter jurisdiction or of competency to exercise that jurisdiction." WIS. STAT. § 48.315(3).

The no-merit report further addresses the validity of E.F.'s no-contest plea in the grounds phase, including the adequacy of the statutorily required plea colloquy and whether the plea was knowingly, intelligently and voluntarily entered. *See* WIS. STAT. § 48.422(7). The colloquy, coupled with the testimony at the prove-up hearing, established a factual basis for E.F.'s stipulation in the grounds phase. *See* ***Waukesha Cnty. v. Steven H.***, 2000 WI 28, ¶56, 233 Wis. 2d 344, 607 N.W.2d 607, *holding on other grounds clarified by* ***St. Croix Cnty. Dep't of Health & Hum. Servs. v. Michael D.***, 2016 WI 35, 368 Wis. 2d 170, 880 N.W.2d 107; *see also* § 48.422(3). We are satisfied that the no-merit report sufficiently analyzes these issues and properly concludes that any challenge based upon them would lack arguable merit.[4]

The no-merit report also addresses whether there would be any arguable basis for challenging the circuit court's decision to terminate E.F.'s parental rights. The decision to terminate a parent's rights is discretionary and the best interest of the child is the prevailing standard. ***Gerald O. v. Cindy R.***, 203 Wis. 2d 148, 152-53, 551 N.W.2d 855 (Ct. App. 1996). The court considers multiple factors, including, but not limited to:

[4] The no-merit report acknowledges that the circuit court failed to inquire about whether a proposed adoptive parent for the child had been identified. *See* WIS. STAT. § 48.422(7)(bm). A permanency plan dated August 29, 2022 (i.e., preceding the November 28, 2022 plea hearing) indicates that D.F. was "placed in an adoptive resource who is approved for adoption." Under § 48.422(7)(bm), the identification of a proposed adoptive parent triggers the obligation to request a report under WIS. STAT. § 48.913(7), which includes a list of all transfers of anything of value between the proposed adoptive parent and the birth parent. There is no indication in the appellate record that such a report was requested or submitted.

Nonetheless, any argument for plea withdrawal appears wholly frivolous based on this record. There is no indication that E.F.'s no-contest plea was the product of coercion; and specifically, no evidence that the foster parent provided anything of value to obtain E.F.'s plea. Indeed, the record demonstrates that the foster parent and E.F. were often at odds, with E.F. at one point writing to the circuit court objecting to D.F.'s continued placement with the foster parent. E.F. also stated at the plea hearing that she was not promised anything or pressured in any way to enter a no-contest plea in the grounds phase.

> (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.

WIS. STAT. § 48.426(3).

We agree with counsel's conclusion that there is no arguable merit to any challenge to the circuit court's decision to terminate parental rights. The court's decision gave explicit consideration to each of the relevant factors identified in WIS. STAT. § 48.426(3) and calibrated those factors to the overall "best interests" standard. There appears on this record no nonfrivolous basis for asserting the court erroneously exercised its discretion when determining whether termination was in D.F.'s best interests.

The no-merit report does not address the circuit court's observation that the cross-examination of the foster parent was lacking. Specifically, the court was critical of the attorneys (including, presumably, E.F.'s trial counsel) for failing to ask the foster parent about the details of the periods that D.F. had been removed from her care. However, there is no indication on this record that a more robust cross-examination would have produced testimony that supported a non-frivolous basis for an appeal. In particular, the court stated its decision on termination

accounted for its concerns about what was occurring in the foster parent's home, including the temporary removals and unexcused school absences.

Our review of the record discloses no other potential issues for appeal. We therefore accept the no-merit report, affirm the order terminating E.F.'s parental rights to D.F., and discharge appellate counsel of the obligation to represent E.F. further in this appeal. Based on the foregoing,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Olivia Garman is relieved of further representation of E.F. in this matter. *See* WIS. STAT. RULE 809.32(3).

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

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*Samuel A. Christensen*
*Clerk of Court of Appeals*