



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT I

September 9, 2026

To:

Hon. Nidhi Kashyap
Circuit Court Judge
Electronic Notice

Tammy Kruczynski
Juvenile Clerk
Milwaukee County Courthouse
Electronic Notice

Morgan Marisela Pehrson
Electronic Notice

Steven Zaleski
Electronic Notice

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

Courtney L.A. Roelandts
Electronic Notice

S.D.

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

2026AP1533-NM	In re the termination of parental rights to K.N.D., a person under the age of 18: State of Wisconsin v. S.D. (L.C. # 2024TP67)
2026AP1534-NM	In re the termination of parental rights to M.M.B., a person under the age of 18: State of Wisconsin v. S.D. (L.C. # 2024TP68)
2026AP1535-NM	In re the termination of parental rights to Z.N.B., a person under the age of 18: State of Wisconsin v. S.D. (L.C. # 2024TP69)
2026AP1536-NM	In re the termination of parental rights to I.M.W., a person under the age of 18: State of Wisconsin v. S.D. (L.C. # 2024TP70)

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).

¹ These consolidated appeals are 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.

S.D. (Sarah) appeals from orders terminating her parental rights to K.N.D. (Kim), born in October 2012, M.M.B. (Martin), born in December 2015, Z.N.B. (Zinnia), born in March 2018, and I.M.W. (Iris), born in April 2021.² Appellate counsel, Attorney Steven Zaleski, filed a no-merit report. *See Anders v. California*, 386 U.S. 738 (1967); WIS. STAT. RULES 809.107(5m), 809.32. Sarah was informed of her right to file a response but she did not respond. Upon consideration of the no-merit report and an independent review of the records, we conclude that no arguably meritorious issues exist for an appeal. Therefore, we summarily affirm the orders terminating Sarah's parental rights.

In March 2023, the Division of Milwaukee Child Welfare³ investigated an allegation that Sarah was using cocaine, heroin, and Fentanyl while pregnant. Two case workers met with Sarah at her home, and she acknowledged regularly using those substances and that she was pregnant with her fifth child. Additionally, the case workers observed that the condition of the home was deplorable. It smelled of feces and urine, animal excrement was scattered throughout the house, and the home was filled with dirty dishes, trash, dirty clothes, and old food. The workers observed the children's bedrooms and noted that Sarah's four children were either sleeping on the floor or on furniture that was covered with garbage, soiled diapers, and dirty clothing.

² Pursuant to WIS. STAT. RULE 809.81(8), and for ease of reading, we refer to the appellant and her family members by pseudonyms in the discussion portion of this opinion and order.

³ At the time of the circuit court proceedings, the Division of Milwaukee Child Welfare was known as the Division of Milwaukee Child Protective Services.

Sarah's four children were removed from the home due to its hazardous conditions and Sarah's ongoing substance abuse. The removals were the third for Kim and Martin and the second for Zinnia and Iris. The State filed petitions alleging that Kim, Martin, and Zinnia were children in need of protection or services (CHIPS), the second such petition filed for each of those children. The State also petitioned to extend a CHIPS order already in place for Iris. Following hearings on the petitions, each child was determined to be in need of protection or services and placed outside of the parental home pursuant to an order that included warnings concerning grounds to terminate parental rights. Kim, Martin, and Zinnia were placed with a foster parent who had previously provided respite care for them, and Iris was placed with a separate foster family.

In March 2024, the State filed petitions seeking termination of Sarah's parental rights to Kim, Martin, Zinnia, and Iris.⁴ As grounds, the State alleged that each child was in continuing need of protection or services (continuing CHIPS) and further alleged that Sarah had failed to assume parental responsibility. *See* WIS. STAT. § 48.415(2)(a), (6). In support of the continuing CHIPS claims, the State alleged, among other matters, that Sarah had not met the conditions for the return of the children to her care. In this regard, the State alleged that Sarah: was unable to handle visits with all four children together, and could not manage the children's behaviors; did not consistently attend the children's medical and dental appointments; had successfully completed only one drug test in three months; was not participating in mental health services;

⁴ The State also sought to terminate the parental rights of J.B. (Jarrod), the biological father of Kim, Martin and Zinnia, and the parental rights of J.W. (James), Iris's biological father. The orders terminating Jarrod's and James's parental rights are not before us in this appeal.

and had an ongoing relationship with a physically abusive partner. In support of the claims that Sarah had failed to assume parental responsibility, the State alleged that Sarah had failed to establish a substantial parental relationship with each child and had failed to accept and exercise significant responsibility for each child's daily supervision, education, protection, and care.

On March 31, 2025, the day set for trial on the grounds phase of the proceedings, Sarah chose to enter a no-contest plea to the continuing CHIPS ground. The circuit court accepted her plea and dismissed the claims that she failed to assume parental responsibility for the children. In July 2025, the matters proceeded to the dispositional phase. Based on the evidence presented, including testimony from Sarah, her case worker, and each of the foster mothers, the circuit court determined that terminating Sarah's parental rights was in the best interests of each child.

In the no-merit report, appellate counsel first addresses whether Sarah could pursue an arguably meritorious claim that the circuit court was not competent to act in the matters because it failed to adhere to statutory deadlines. Counsel's discussion reflects, and the records confirm, that the circuit court granted numerous continuances but did so only upon a finding of good cause. *See* WIS. STAT. § 48.315(2). Moreover, Sarah did not object to any of the continuances. *See* WIS. STAT. § 48.315(3) (providing that failure to object to a continuance "waives any challenge to the court's competency to act during the period of delay or continuance"). We therefore agree with counsel's conclusion that a challenge to the orders terminating Sarah's parental rights based on failure to comply with statutory time limits would lack arguable merit.

Appellate counsel next considers whether an arguably meritorious basis exists to challenge Sarah's no-contest plea to the allegations of continuing CHIPS. Before accepting a

no-contest plea in the grounds phase of a proceeding to terminate parental rights, the circuit court must conduct a colloquy with the parent in accordance with WIS. STAT. § 48.422(7), to ensure that the plea is knowing, intelligent, and voluntary. *Brown Cnty. DHS v. Brenda B.*, 2011 WI 6, ¶¶34-35, 331 Wis.2d 310, 795 N.W.2d 730. The record here reflects that the circuit court conducted a thorough colloquy that addressed the statutory requirements. During the colloquy, the circuit court explained the elements that the State must prove to establish continuing CHIPS under § 48.415(2)(a), and Sarah said that she understood those elements. She acknowledged that by pleading no contest, she was giving up a variety of constitutional rights, including the rights to contest the allegations, to call and cross-examine witnesses, and to have a jury trial on the grounds phase of the proceedings. The circuit court explained that, as a consequence of Sarah's no-contest plea, she would be found to be an unfit parent but that termination of her parental rights was not the only possible disposition. Sarah said that she understood, and she assured the circuit court that she had not been threatened or promised anything to induce her no-contest plea. The circuit court found that Sarah's no-contest plea to continuing CHIPS as to each of the children was made knowingly and voluntarily.

As required by WIS. STAT. § 48.422(3), the State also presented evidence in support of the allegations that the children were in continuing need of protection and services. The State submitted certified copies of record documents from the CHIPS proceedings for each of the four children, and the State presented testimony from Damia Fulsom, the case manager for Sarah and her family. Fulsom discussed the various conditions that Sarah was required to satisfy before the children could be returned to her care, the steps that Fulsom took to assist Sarah in meeting those conditions, and the numerous ways that Sarah had failed to satisfy the conditions. See WIS.

STAT. § 48.415(2)(a); WIS JI—CHILDREN 324 (describing the elements of continuing CHIPS). The circuit court found that the testimony and other evidence established the elements necessary to prove continuing CHIPS. We agree with that conclusion. The record shows that no arguably meritorious grounds exist for Sarah to challenge her no-contest plea.

Appellate counsel next addresses whether Sarah could pursue an arguably meritorious challenge to the decision terminating her parental rights. The decision to terminate parental rights lies within the circuit court’s discretion. *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. WIS. STAT. § 48.426(2). In determining the best interests of the child, a circuit court must consider: (1) the likelihood of adoption after termination; (2) the child’s age and health; (3) “[w]hether 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”; (4) the child’s wishes; (5) “[t]he duration of the separation of the parent from the child”; and (6) “[w]hether 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).

The records here reflect that the circuit court expressly considered each of the relevant factors, made extensive factual findings based on the evidence presented, and reached a reasonable conclusion. The circuit court placed particular emphasis on the uncertainty in the children’s lives caused by the cycle of removing the children from Sarah’s care due to her substance abuse and “disastrous” living situation, reunifying the family upon Sarah’s apparent control of her substance abuse disorder, and then removing the children again upon Sarah’s

relapse into substance abuse and the accompanying deterioration of her home into an unhealthy and hazardous environment. The circuit court also found that the children were happy in their current placements with foster families that were committed to adopting the children, and the circuit court concluded that terminating Sarah's parental rights was the only path to a stable and permanent family relationship. In light of the circuit court's findings and conclusions, we agree with appellate counsel that any challenge to the circuit court's decision to terminate Sarah's parental rights would lack arguable merit.

Appellate counsel next examines whether Sarah could pursue an arguably meritorious claim that her trial counsel was ineffective. To prevail on such a claim, a party must show that counsel's performance was deficient and that the deficiency was prejudicial. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Upon review of the records, we agree with appellate counsel that nothing in them supports an arguably meritorious claim that trial counsel was ineffective in representing Sarah.

Last, we address a matter that appellate counsel did not discuss, namely, whether Sarah could pursue an arguably meritorious challenge to the orders terminating her parental rights on the ground that the circuit court did not comply with procedures required for child custody proceedings involving Indian children. See Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901-1963; Wisconsin Indian Child Welfare Act (WICWA), WIS. STAT. § 48.028. The records here show that all four children have Native American heritage through Sarah's affiliation with two tribes, and all but Iris have Native American heritage through Jarrod's connection to a third tribe, albeit one for which he is ineligible for membership. In any involuntary state court proceeding regarding child custody or the termination of parental rights,

the circuit court must comply with ICWA and WICWA if an Indian child is involved. *See* 25 U.S.C. § 1912(a); § 48.028(4)(a); *Sheboygan Cnty. DHS v. Neal J.G.*, 2003 WI 11, ¶¶14-15, 259 Wis. 2d 563, 657 N.W.2d 363; *Kewaunee Cnty. DHS v. R.I.*, 2018 WI App 7, ¶20, 379 Wis. 2d 750, 907 N.W.2d 105. However, the term “Indian child” means something more specific than having Native American heritage. *Neal J.G.*, 259 Wis. 2d 563, ¶16. The child must either be a member of an Indian tribe or be eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. *Id.*; 25 U.S. § 1903(4); § 48.028(2)(d).

In this case, the certified records from the CHIPS proceedings reflect that three tribes, including the Stockbridge-Muncee Community in which Sarah advised she is an enrolled member, provided letters stating that the children are neither enrolled in the tribe nor eligible for membership. Accordingly, the circuit court found in each CHIPS proceeding that the child was not an Indian child. The circuit court in the instant matters subsequently found in each case that the Indian child welfare laws did not apply. In light of the foregoing, Sarah could not pursue an arguably meritorious challenge to those findings.

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

Therefore,

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

IT IS FURTHER ORDERED that Attorney Steven Zaleski is relieved of any further representation of S.D. on appeal. *See* WIS. STAT. RULE 809.32(3).

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

Samuel A. Christensen
Clerk of Court of Appeals