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January 31, 2018

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

2017AP2330-NM In re the termination of parental rights to A.T.E., a person under the age of 18: State of Wisconsin v. T.A.E. (L.C. #2016TP167)

Before Gundrum, J.[1]

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 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).

T.A.E. appeals from an order granting an involuntary termination of his parental rights (TPR) to his child, A.T.E. T.A.E.'s appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32, ***Anders v. California***, 386 U.S. 738 (1967), and ***Brown County v. Edward C.T.***, 218 Wis. 2d 160, 161, 579 N.W.2d 293 (Ct. App. 1998) (per curiam). T.A.E. received a copy of the report and was advised of his right to file a response but he has not done so. After considering the no-merit report and independently reviewing the record, we conclude there are no issues with arguable merit for appeal. Accordingly, we summarily affirm the order. *See* WIS. STAT. RULE 809.21.

The State filed a TPR petition alleging that five-year-old A.T.E. continued to be a child in need of protection or services (CHIPS) and that T.A.E. failed to assume parental responsibility under WIS. STAT. § 48.415(2) and (6). T.A.E. entered a no-contest plea to the allegation of failure to assume parental responsibility; the continuing CHIPS allegation was dismissed. Finding that the State proved the ground by clear, satisfactory, and convincing evidence, the court found T.A.E. to be an unfit parent. After a contested dispositional hearing, the court rejected T.A.E.'s request for a guardianship, found that adoption was the most appropriate permanency goal, and granted the TPR. 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 addresses as potential appellate issues whether the circuit court met its obligations under WIS. STAT. § 48.422(3) and (7) in accepting T.A.E.'s no-contest plea to failing to assume parental responsibility; whether his no-contest plea was knowingly, intelligently, and voluntarily made; and whether sufficient credible evidence supported the court's finding of parental unfitness and its dispositional decision, such that the court did not erroneously exercise its discretion or otherwise fail to consider the child's best interests under WIS. STAT. § 48.426(3). As the no-merit report capably discusses these potential issues to support the no-merit conclusion, we need not address them further. Our review of the record confirms counsel's conclusion that these potential issues lack arguable merit.

We also consider whether T.A.E. knowingly and voluntarily waived his right to a jury trial. The right to a jury trial in a TPR case is a statutory right under WIS. STAT. § 48.422(4), not a constitutional right. ***Steven V.***, 271 Wis. 2d 1, ¶34. TPRs are civil, not criminal, proceedings. ***Id.***, ¶32. Although the circuit court is not obliged to engage in a personal colloquy when a parent waives his or her right to a jury trial, ***Racine Cty. Human Servs. Dep't v. Latanya D.K.***, 2013 WI App 28, ¶21, 346 Wis. 2d 75, 828 N.W.2d 251, the court here undertook a careful colloquy to ensure that T.A.E.'s waiver was knowingly, intelligently, and voluntarily made. No issue of arguable merit could be raised.

Our review of the record discloses no other potential issues for appeal. We therefore accept the no-merit report, affirm the order terminating T.A.E.'s parental rights to A.T.E., and discharge appellate counsel of the obligation to represent T.A.E. 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 Edward E. Leineweber is relieved of any further representation of T.A.E. in this matter. *See* WIS. STAT. RULE 809.32(3).

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

Diane M. Fremgen
Acting Clerk of Court of Appeals