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DISTRICT III

June 3, 2025

To:

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Circuit Court Judge
Electronic Notice

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P. A. S.

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

2025AP592-NM

Ashland County v. P. A. S. (L. C. No. 2023TP6)

Before Stark, 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).

Counsel for Susan² filed a no-merit report pursuant to WIS. STAT. RULE 809.32, concluding that there is no arguable basis for challenging the order terminating Susan's parental

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

² Pursuant to WIS. STAT. RULE 809.81(8), we use pseudonyms when referring to the appellant and her daughter in this confidential matter

rights to her daughter, Alice.³ Susan was advised of her right to file a response to the report, and she has not responded. Upon this court's independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no issue of arguable merit. Therefore, the order terminating Susan's parental rights is summarily affirmed. See WIS. STAT. RULE 809.21.

Alice was born in December 2020, and was removed from Susan's care when she was three days old, based on reports from hospital staff that Susan was unable to recognize Alice's cues or provide basic infant care. Alice was adjudged to be a child in need of protection or services (CHIPS), and she was placed outside her parental home. Susan failed to meet the conditions necessary to have Alice returned to her care.

On October 24, 2023, the Ashland County Department of Human Services (the County) petitioned to terminate Susan's parental rights (TPR), alleging as grounds the continuing need for CHIPS pursuant to WIS. STAT. § 48.415(2)(a). With appointed counsel, Susan contested the petition and demanded a jury trial.

The County moved for partial summary judgment on the allegation of continuing CHIPS during the grounds phase of the TPR proceedings. This ground for termination is established by showing: (1) that the child was adjudged to be in need of protection or services and was placed outside the parent's home for a cumulative period of six months or longer pursuant to one or more court orders containing the required termination warnings; (2) that the relevant agency made a reasonable effort to provide court-ordered services; and (3) as relevant here, that the

³ Alice's father voluntarily terminated his parental rights.

parent failed to meet the conditions for the child's safe return to the home. *See* WIS. STAT. § 48.415(2)(a)1.-3. The County bears the burden of making its case by clear and convincing evidence. *See* WIS. STAT. § 48.31(1).

In its motion and supporting memorandum, the County alleged that Alice had never resided in Susan's home and that Alice had been placed outside of Susan's home for 34 months—Alice's entire life—pursuant to a CHIPS dispositional order. According to the motion, the County made reasonable efforts to safely return Alice to Susan's care, but Susan failed to meet several conditions for Alice's safe return. The County set forth five specific ways in which Susan had failed to meet the conditions. Although Susan asked for, and was given, an opportunity to respond to the motion in writing, she did not submit a written response. When the circuit court asked Susan's counsel what it was "supposed to draw" from the lack of a written response, counsel responded:

I think as an officer of the court ... I can represent meeting with [Susan] was not easy. She is here today and I thank her for that and I think it's important that she's here today. I think the [c]ourt can draw—I think that's all I can say, Your Honor.

Counsel added, however, that Susan "would object to the motion and would ask the court not find partial summary judgment."

The circuit court noted that all of the elements necessary to establish the continuing CHIPS "are provable and are proven in this case by documents" and "[cannot] reasonably be in dispute." The court further noted it was undisputed that the County made reasonable efforts to provide Susan with court-ordered services and that Susan failed to meet the conditions for Alice's safe return. The court ultimately granted partial summary judgment to the County at the grounds phase and entered "a finding of unfitness as it relates to" Susan. At the dispositional

phase hearing, the court considered proper factors and found that termination of Susan's parental rights was in Alice's best interest.

The no-merit report addresses whether the circuit court erred by granting the County's motion for partial summary judgment and whether the court properly exercised its discretion when concluding that termination of Susan's parental rights was in Alice's best interest. We agree with counsel's analysis and conclusion that any challenge to the court's decision to grant partial summary judgment at the grounds phase or the court's exercise of discretion during the dispositional phase of the proceedings would lack arguable merit. The no-merit report sets forth an adequate discussion of these potential issues so as to support the no-merit conclusion, and this court need not address them further. An independent review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney David J. Susens is relieved of his obligation to further represent Susan in this matter. *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