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DISTRICT III

July 1, 2025

To:

Hon. Kelly J. Thimm
Circuit Court Judge
Electronic Notice

Andrew Joseph Harrington
Electronic Notice

Jaime McMeekin
Juvenile Clerk
Douglas County Courthouse
Electronic Notice

Steven Zaleski
Electronic Notice

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

2024AP2333	Douglas County v. D.L.C.
2024AP2334	(L. C. Nos. 2023TP17, 2023TP18, 2023TP19).
2024AP2335	

Before Gill, 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).

In these consolidated cases, Dawn appeals circuit court orders terminating her parental rights to three of her children, Henry, Susan, and Ezra.² Based upon our review of the briefs and records, we conclude that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. We summarily affirm the court's orders.

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 For ease of reading in this confidential matter, we refer to the appellant using a pseudonym, rather than her initials, and we do the same for the children.

In her appellate briefs, Dawn solely argues that WIS. STAT. § 48.426 is facially unconstitutional because it does not require a petitioner to prove by clear and convincing evidence that termination of parental rights (TPR) is in the child’s best interest during the dispositional phase of the TPR process. According to Dawn, this violates her procedural due process rights pursuant to *Santosky v. Kramer*, 455 U.S. 745 (1982). Dawn therefore claims that she is entitled to a new dispositional hearing.

Dawn’s argument closely mirrors the argument of the respondent-appellant in *State v. H.C.*, No. 2023AP1950, unpublished slip op. (WI App Mar. 5, 2024).³ On September 11, 2024, our supreme court entered an order granting H.C.’s April 2024 petition for review, stating that it would be deciding the issue of whether there is a burden of proof during the dispositional phase of the TPR process.

On January 10, 2025, this court entered an order holding Dawn’s appeals in abeyance, pending our supreme court’s decision in *H.C.* We further ordered that “within ten days of our supreme court’s decision ... the parties shall advise this court whether they wish to modify or otherwise supplement their existing briefs.” On June 3, 2025, our supreme court released its opinion in *H.C.*, in which it concluded that “[o]nce the State has proven a parent unfit, the Constitution does not obligate the State to prove by clear and convincing evidence (or even a preponderance of the evidence) that termination is in the child’s best interests.” *State v. H.C.*, 2025 WI 20, ¶24, ___ Wis. 2d ___, ___ N.W.3d ___.

³ We cite this unpublished case not as precedent or authority, but to provide general background information regarding the procedural posture of the present appeal. See WIS. STAT. RULE 809.23(3)(a).

On June 12, 2025, Dawn filed a notice in this court in which she “recognize[d] that the decision in *State v. H.C.* addresses the sole issue raised in this case” and stated that she “does not intend to modify or supplement [her] briefing.” On June 13, 2025, Douglas County filed a notice stating that it did not intend to supplement or modify the record with additional briefing.

We conclude that our supreme court’s holding in *H.C.* is dispositive, and, given that the burden of proof is Dawn’s only argument on appeal, *H.C.* requires us to affirm the orders terminating Dawn’s parental rights. Dawn raises no arguments to the contrary.

Upon the foregoing,

IT IS ORDERED that the orders are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals