

**WISCONSIN SUPREME COURT
WEDNESDAY, DECEMBER 1, 2010
9:45 a.m.**

This is a review of a decision of the Wisconsin Court of Appeals, District III (headquartered in Wausau), which affirmed a Brown County Circuit Court decision, Judge Timothy A. Hinkfuss, presiding.

2010AP321 [Brown County DHS v. Brenda B.](#)

In this termination of parental rights case, the Supreme Court examines a trial court's discretion in denying a motion to withdraw a no contest plea without an evidentiary hearing.

Some background: Brown County filed a petition to terminate Brenda B.'s parental rights, alleging she failed to assume parental responsibility, and that her child was in continuing need of protection or services. Brenda entered a no-contest plea to the continuing need ground; the county dismissed the other. The court ultimately concluded Brenda's plea was knowingly and intelligently made. After a contested dispositional hearing, the court terminated Brenda's parental rights.

Brenda filed a post-disposition motion arguing the plea colloquy was deficient because the court failed to adequately inform her of all the potential dispositions and failed to inform her she was waiving her constitutional right to parent. The motion alleged Brenda was unaware of this information. The court denied Brenda's motion without conducting an evidentiary hearing. Brenda appealed, and the Court of Appeals affirmed.

Brenda argues the trial court inadequately informed her of all the potential dispositions set forth in Wis. Stat. § 48.427, which lays out the details and requirements of the termination process. She argues that it was insufficient for the court to simply confirm that she understood only the two primary dispositions set forth at Wis. Stat. §§ 48.427(2) and (3) (providing that either the termination petition would be dismissed or her parental rights would be terminated). She asserts the court was required to confirm her understanding of "the full range of options" specified under the statute.

The Court of Appeals observed that it "would be not merely burdensome, but practically impossible, to convey a full understanding of the court's disposition options upon termination." Thus, the Court of Appeals concluded that "parents must understand they may lose their child as a result of their no contest plea, but need not have a complete understanding of every possible alternative available to the court should it determine termination is in the child's best interest."

In presenting its case to the Court of Appeals, Brown County relied almost entirely on an unpublished decision in [Dane County DHS v. James M.](#) (2009AP2038 and 2009AP2039). The county restated much of the Court of Appeals' decision in that case without citation, according to the Court of Appeals.

A decision by the Supreme Court could clarify whether a colloquy for an admission or plea of no contest as to ground for termination of parental rights must include an explanation of dismissal and an explicit waive of a parent's constitutional right to parent a child.