

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**October 25, 2005**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal Nos. 2005AP2045  
2005AP2046**

**Cir. Ct. Nos. 2004TP9  
2004TP10**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**No. 2005AP2045**

**IN RE THE TERMINATION OF PARENTAL RIGHTS TO JESSICA A., A PERSON UNDER THE AGE OF 18:**

**TAYLOR COUNTY HUMAN SERVICES DEPARTMENT,**

**PETITIONER-RESPONDENT,**

**V.**

**JENNIFER K.,**

**RESPONDENT-APPELLANT.**

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**No. 2005AP2046**

**IN RE THE TERMINATION OF PARENTAL RIGHTS TO JONATHON A., A PERSON UNDER THE AGE OF 18:**

**TAYLOR COUNTY HUMAN SERVICES DEPARTMENT,**

**PETITIONER-RESPONDENT,**

**V.**

**JENNIFER K.,**

**RESPONDENT-APPELLANT.**

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APPEALS from orders of the circuit court for Taylor County:  
GARY L. CARLSON, Judge. *Affirmed.*

¶1 HOOVER, P.J.<sup>1</sup> Jennifer K. appeals dispositional orders terminating her parental rights to her two children. She challenges the sufficiency of the evidence at trial and contends that the circuit court erroneously exercised its discretion. This court rejects her arguments and affirms the orders.

#### BACKGROUND

¶2 On October 27, 2004, the Taylor County Human Services Department filed petitions to terminate Jennifer's parental rights to her two children. As grounds for termination, the Department asserted that the children were in continuing need of protection or services, as provided by WIS. STAT. § 48.415(2).

¶3 At the jury trial that followed, the parties stipulated that Jennifer's children were in need of continuing protection or services. *See* WIS. STAT. § 48.415(2)(a)1. After three days of testimony, the jury found that the Department made reasonable efforts to provide services ordered by the court. *See* WIS. STAT. § 48.415(2)(a)2b. The jury also found that Jennifer failed to comply with the

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

conditions established for the safe return of her children and that there was a substantial likelihood that she would not meet the conditions in the following twelve months. *See* WIS. STAT. § 48.415(2)(a)3. Upon the stipulation and jury's findings, the court found Jennifer unfit as a parent. After considering the factors required by WIS. STAT. § 48.426(3), the court entered orders terminating Jennifer's parental rights. Jennifer appeals.

### DISCUSSION

¶4 Jennifer argues there was insufficient evidence to support the jury's finding that the Department made reasonable efforts to provide her with court-ordered services. She further argues there is insufficient evidence for the ultimate finding that there were grounds to terminate her parental rights. Finally, Jennifer argues the court erroneously exercised its discretion when it terminated those rights.

¶5 An appellate court will uphold a jury's verdict so long as there is credible evidence to support it. *State v. Quinsanna D.*, 2002 WI App 318, ¶30, 259 Wis. 2d 429, 655 N.W.2d 752. As a preliminary note, Jennifer's arguments do not apply this standard of review. Instead, she argues that the Department could have done more. However, applying the correct standard, there is credible evidence to support the jury's finding that the Department made reasonable efforts to provide Jennifer with court-ordered services.

¶6 As part of protection and services orders filed March 12, 2004, the court ordered the Department to aid Jennifer in complying with six conditions for the return of her children. Those conditions required Jennifer to do the following: (1) attend all scheduled visits and show a proper interest and understanding of her

children's needs; (2) attend couple's therapy with the children's father if they remain together; (3) work with an in-home parenting educator and learn enough skills to keep the children safe; (4) attend regularly scheduled individual therapy; (5) keep a clean, safe home and not leave the children with any other adults or baby-sitters without her social worker's approval; and (6) undergo ongoing AODA treatment for at least three months and attain approval of her AODA counselor.

¶7 Witnesses testified the Department arranged or provided numerous services, including supervised visits, individual therapy, in-home parenting education, along with AODA assessment and treatment. Moreover, Jennifer does not point to any court-ordered services that were not made available to her. Given the services indicated in the record, the jury's finding of reasonable efforts by the Department was supported by credible evidence.

¶8 The ultimate finding that grounds existed to terminate Jennifer's parental rights is also supported by the record. Beyond what has already been discussed, evidence permitted the conclusion that Jennifer did not comply with the conditions for obtaining the return of her children. A social worker testified that Jennifer did not fully comply with the individual therapy condition and that she failed to maintain a clean and safe home. Jennifer's in-home educator testified that Jennifer had not completed any of her homework assignments. Also, despite an AODA counselor's recommendation that Jennifer receive ongoing treatment, Jennifer refused such treatment.

¶9 Evidence further supported the finding that Jennifer would not meet the conditions within the following twelve months. A social worker who had worked with Jennifer for three years opined that Jennifer would not likely meet these conditions within that timeframe. This testimony, along with Jennifer's

history of failing to comply with the conditions, constitutes credible evidence that Jennifer would be unlikely to comply with the conditions in the following twelve months.

¶10 Overall, there is credible testimony supporting all of the factual findings in this case, and those findings together provide grounds for terminating Jennifer's parental rights. *See* WIS. STAT. § 48.415(2). Appellate counsel's argument that the Department could have done more, or that other evidence could lead to different conclusions, does not upset the validity of these factual findings. All that is required is credible evidence, and such evidence exists here.

¶11 This court also rejects Jennifer's argument that the circuit court erroneously exercised its discretion in terminating her parental rights. Once a jury determines that grounds exist for a termination, the court must decide what disposition is in the best interest of the child. WIS. STAT. § 48.424(3). In determining the appropriate disposition, the court must consider the following factors: (1) the likelihood of the child's adoption after termination; (2) the child's age and health at the time of removal and disposition; (3) the child's relationship with the parent and the harm to be caused by severing the relationship; (4) the child's wishes; (5) the length of the parent's separation from the child; and (6) whether the child will be able to enter a more stable family relationship after the termination. WIS. STAT. § 48.426(3).

¶12 Jennifer argues that specific factors weigh against terminating her parental rights. First, she argues that the children are not eligible for adoption because the father's parental rights were not terminated. However, the court addressed this argument, noting that termination can be in the best interests of a child even where adoption is not possible. Later, the court also noted that the

children would be in a better position remaining in foster care than returning to either birth parent, even if adoption were not possible.

¶13 Jennifer also argues that the termination would be harmful to the children. Yet, the children's therapist testified that the termination would not be harmful to the children. The therapist also testified that the children's bond with their mother ranged from none to minimal. The court expressly considered this factor and determined that while the termination would be hurtful in the short-term, it would not be harmful overall.

¶14 Jennifer finally argues that the children expressed some desire to continue a relationship with her. The court considered the children's wishes, but determined to give this factor less weight because of the children's young ages. Nonetheless, the court properly considered this factor.

¶15 Jennifer has provided no basis for concluding that any of the factors were improperly considered. Having focused her arguments on a few specific factors, Jennifer has not attempted to demonstrate how all the factors, when considered together, weigh against termination. More specifically, Jennifer has not shown how the court's weighing of the factors constituted an erroneous exercise of discretion.

*By the Court.*—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

