

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 27, 2004

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. 03-2702
03-2703
03-2704
03-2705**

**Cir. Ct. Nos. 02TP000169
02TP000170
02TP000171
02TP000172**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

NO. 03-2702

CIR. CT. NO. 02TP000169

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

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

BRIDGET P.,

RESPONDENT-APPELLANT.

NO. 03-2703

CIR. CT. NO. 02TP000170

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

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

BRIDGET P.,

RESPONDENT-APPELLANT.

NO. 03-2704

CIR. CT. NO. 02TP000171

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

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

BRIDGET P.,

RESPONDENT-APPELLANT.

NO. 03-2705

CIR. CT. NO. 02TP000172

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

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

BRIDGET P.,

RESPONDENT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
TIMOTHY M. WITKOWIAK, Judge. *Affirmed.*

¶1 CURLEY, J.¹ Bridget P. appeals the trial court's orders terminating her parental rights to her four children. She argues that the trial court failed to consider an essential factor, i.e., the harm the children would suffer by severing Bridget P.'s parental rights due to their substantial relationship with her. Because the trial court considered all of the necessary factors in terminating Bridget P.'s parental rights, including the harm that would result from severing the substantial relationship Bridget P. had with her children, this court affirms.

I. BACKGROUND.

¶2 Bridget P. gave birth to four children: Shanikwa, born June 14, 1991; Jasmine, born January 26, 1994; Ramon, born June 13, 1995; and Sandra, born December 23, 1997. Ramon is the adjudicated father of the youngest three children. Shanikwa and Jasmine were first removed from Bridget P.'s home in July 1994. They were found to be children in need of protection or services (CHIPS) on January 4, 1995. When the initial CHIPS order expired, they were returned to Bridget P.'s care.

¶3 In April 1999, all four children were removed from Bridget P.'s home. The children were found to be in need of protection or services in August 1999. The three oldest children were returned to Bridget P. in March 2001. A month later, after Bridget P. tested positive for drugs and the children had not been

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2).

to school for two weeks, the children were removed from their mother's home once again. Ramon, the youngest, has lived outside his mother's home since April 1999.

¶4 In 2001, Bridget P. was convicted of one count of delivery of cocaine in Washington County. It appears that she was originally charged with three counts of delivery of cocaine, but when she agreed to plead guilty to one count, the other two counts were dismissed. Her sentence was withheld, and she was placed on probation for four years, with the condition that she spend the first year of probation in jail.

¶5 In late 2002, Bridget P. escaped from custody. Upon being arrested for escape, Bridget P. alleged that she escaped because she had been sexually assaulted by several jail personnel. An investigation revealed that the accused employees were not working at the time Bridget P. claimed she was assaulted, and the twenty-four-hour video surveillance of her dormitory did not corroborate her allegations. As a result, Bridget P. was charged with felony false swearing. That charge was pending at the time of the dispositional hearing.

¶6 On March 12, 2002, a termination of parental rights petition was filed in Milwaukee County seeking to terminate Bridget P.'s parental rights to all four children. The petition alleged two grounds for the termination of her parental rights: that Bridget P. had failed to assume parental responsibility for her children,

pursuant to WIS. STAT. § 48.415(6) (2001-02),² and that the children continued to be in need of protection or services, pursuant to WIS. STAT. § 48.415(2) (2001-02).

¶7 Bridget P. obtained legal counsel and contested the petition. However, in February 2003, Bridget P. stipulated that the children were in need of protection or services, and that it was unlikely she would be able to meet the conditions for return within twelve months. Consequently, the trial court found her to be an unfit parent and a contested dispositional hearing was scheduled for June 25, 2003. At the dispositional hearing, the trial court took testimony from both Bridget P. and a case worker, and subsequently determined, in an oral decision, that Bridget P.'s parental rights to all four children should be terminated.

II. ANALYSIS.

¶8 Bridget P. contends that “the trial court failed to consider the harm to the children of severing [her] substantial relationship with them.” A review of the record belies her claim.

¶9 Provided the statutory grounds for termination are satisfied, the decision to terminate parental rights is within the province of the trial court's discretion. See *Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996). “[T]he trial court must consider all the circumstances and exercise its sound discretion as to whether termination would promote the best interests of the child.” *Mrs. R. v. Mr. and Mrs. B.*, 102 Wis. 2d 118, 131, 306 N.W.2d 46 (1981) (citation omitted).

² All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

¶10 The standard and factors that the trial court must address in determining the proper disposition in a termination of parental rights case are found in WIS. STAT. § 48.426. Section 48.426 provides:

Standard and factors. (1) COURT CONSIDERATIONS. In making a decision about the appropriate disposition under s. 48.427, the court shall consider the standard and factors enumerated in this section and any report submitted by an agency under s. 48.425.

(2) STANDARD. The best interests of the child shall be the prevailing factor considered by the court in determining the disposition of all proceedings under this subchapter.

(3) FACTORS. In considering the best interests of the child under this section the court shall consider but not be limited to the following:

(a) The likelihood of the child's adoption after termination.

(b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.

(c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.

(d) The wishes of the child.

(e) The duration of the separation of the parent from the child.

(f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

Here, the trial court addressed all of the relevant factors and balanced the harm that could be caused by severing the substantial relationship the children had with their mother against the promise of a more stable environment for the children.

The trial court properly determined that a more stable home outweighed the harm that could result from severing their relationship with their mother.

¶11 The trial court, noting that the case worker who testified for the State acknowledged that the children had a substantial relationship with their mother, remarked:

And the interesting part of the testimony to me was the relationship and admission that there is a substantial relationship. I don't know with children of this age how there couldn't be a relationship. I am glad to hear that the department comes forth and does indicate that.

Court has to consider certain factors and that is one of those factors....

....

The other factor the Court has to look at is whether the children are able to enter into a more stable family relationship as a result of termination. That is the trump card in this case. I think it is clear that that would outweigh the family relationship that they have at this time with their mother....

¶12 Contrary to Bridget P.'s contention, the trial court did consider the harm that would result from severing the legal relationship between Bridget P. and her children. The trial court determined that the promise of a more stable family environment outweighed the harm that would be caused by a termination of Bridget P.'s parental rights. In doing so, the trial court properly exercised its discretion. The children had been taken from their mother's home on up to three separate occasions due to Bridget P.'s unlawful conduct, and there was little hope of improvement as Bridget P. was still facing sentencing for a felony at the time of the dispositional hearing. Clearly, given Bridget P.'s past history, the chance to live in a stable and loving environment outweighed the harm that would be caused

by severing the substantial relationship the children had with their mother. The children were in stable foster homes with adoptions a likely possibility. Moreover, the children's current placements were with family members, making it likely that Bridget P.'s relationship with the children could continue. Accordingly, the orders of the juvenile court are affirmed.

By the Court.—Orders affirmed.

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

