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DISTRICT I

January 23, 2024

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D.J.

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

2023AP1334-NM	In re the termination of parental rights to T.J., a person under the age of 18: State of Wisconsin v. D.J. (L.C. # 2021TP116)
2023AP1335-NM	In re the termination of parental rights to J.J.J., a person under the age of 18: State of Wisconsin v. D.J. (L.C. # 2022TP14)

Before Donald, 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).

Attorney Jill C. Vento, appointed counsel for D.J., filed a no-merit report pursuant to WIS. STAT. RULE 809.32, concluding that there would be no arguably meritorious basis for

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

challenging the orders terminating D.J.'s parental rights to T.J. and J.J. The no-merit report addresses whether the circuit court complied with applicable law when it accepted D.J.'s no contest pleas during the grounds phase of the proceedings, as well as whether the circuit court properly exercised its discretion in granting the petitions for termination of D.J.'s parental rights at the close of the dispositional hearing. D.J. received a copy of the report, was advised of his right to file a response, and has not done so. Upon this court's independent review of the records as mandated by *Anders v. California*, 386 U.S. 738 (1967), this court concludes that there are no arguably meritorious issues for appeal. Therefore, the orders terminating D.J.'s parental rights are summarily affirmed. *See* WIS. STAT. RULE 809.21.

The State filed petitions to terminate D.J.'s parental rights to T.J. and J.J. As grounds, the petitions alleged that T.J. and J.J. were in continuing need of protection or services (CHIPS) and that D.J. failed to assume parental responsibility. *See* WIS. STAT. §§ 48.415(2) and (6). D.J. pled no contest to the ground of failure to assume parental responsibility as to each child. Following a multi-day dispositional hearing, the circuit court terminated D.J.'s parental rights to T.J. and J.J. This no-merit appeal follows.

This court independently reviewed the records to determine whether there would be any arguable merit to a claim that the circuit court failed to comply with the statutory time limits under WIS. STAT. ch. 48. The records reflect that all of the mandatory time limits were either complied with or properly extended for good cause, without objection, to accommodate the parties' schedules. "Failure to object to a period of delay ... waives any challenge to the court's competency to act during the period of delay[.]" WIS. STAT. § 48.315(3). Any challenge to the circuit court proceedings based upon a failure to comply with the statutory time limits would be without arguable merit on appeal.

The no-merit report also discusses whether D.J. knowingly and voluntarily entered his pleas of no contest to the ground of failure to assume parental responsibility as to each child. Before accepting a plea, the circuit court is required to engage the parent in a personal colloquy in accordance with WIS. STAT. § 48.422(7). Additionally, the court must ascertain that the parent understands the constitutional rights given up by the plea. *Kenosha Cnty. DHS v. Jodie W.*, 2006 WI 93, ¶25, 293 Wis. 2d 530, 716 N.W.2d 845. The parent must also understand that acceptance of the plea will result in a finding of unfitness. *Oneida Cnty. DSS v. Therese S.*, 2008 WI App 159, ¶¶10-11, 314 Wis. 2d 493, 762 N.W.2d 122. Here, the records establish that the court’s colloquy satisfied these requirements. The court also correctly determined that a factual basis existed based upon the evidence presented by the State, as required under § 48.422(7)(d). We agree with counsel’s assertion that there would be no arguably meritorious basis for challenging D.J.’s no contest pleas entered in the grounds phase of the proceedings.

Next, the no-merit report discusses whether the circuit court properly exercised its discretion at the dispositional hearing. *State v. Margaret H.*, 2000 WI 42, ¶27, 234 Wis. 2d 606, 610 N.W.2d 475 (“ultimate determination of whether to terminate parental rights is discretionary with the circuit court”). Under WIS. STAT. § 48.426(2), the “best interests of the child” is the prevailing standard, and the court is required to consider the factors delineated in § 48.426(3) in making this determination. *Margaret H.*, 234 Wis. 2d 606, ¶¶34-35. Here, the court made findings pursuant to § 48.426(3) that there was a high likelihood that T.J. and J.J. would be adopted; that the age and health of the children at the time of disposition and at the time of removal from home weighed in favor of termination; that the children did not have a substantial relationship with D.J. or other family members and that severing those relationships would not be harmful; that the duration of the children’s separation from D.J. weighed in favor of

termination; and that the children would be able to enter into a more stable and permanent family relationship through termination. The circuit court ultimately found that it was in the best interests of T.J. and J.J. to terminate D.J.'s parental rights. The court's discretionary decision to terminate D.J.'s parental rights demonstrates a rational process that is justified by the facts in the records. *See Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996). This court therefore agrees with counsel that there would be no arguable merit to challenging the circuit court's exercise of discretion in terminating D.J.'s parental rights at the close of the dispositional hearing.

Our independent review of the records does not disclose any other potentially meritorious issues for appeal.

IT IS ORDERED that the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jill C. Vento is relieved from further representing D.J. in these appeals. *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