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DISTRICT I/II

August 28, 2013

To:

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

2013AP1463-NM	In re the termination of parental rights to JT N., a person under the age of 18: State of Wisconsin v. Robert N. (L.C. #2011TP234)
2013AP1464-NM	In re the termination of parental rights to Veronica N., a person under the age of 18: State of Wisconsin v. Robert N. (L.C. #2011TP235)

Before Gundrum, J.¹

In these consolidated cases, Robert N. appeals from orders terminating his parental rights to his children, JT N. and Veronica N. Appellate counsel for Robert has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. Robert received a copy of the report,

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2011-12). All references to the Wisconsin Statutes are to the 2011-12 version.

was advised of his right to file a response, and has elected not to do so. Based upon an independent review of the report and record, this court concludes that no issue of arguable merit could be raised on appeal. We therefore affirm the orders.

On July 19, 2011, the State of Wisconsin filed petitions alleging that Robert's parental rights to his two children, JT N. and Veronica N. should be terminated. On March 12, 2012, Robert stipulated that he had abandoned the children pursuant to WIS. STAT. § 48.415(1)(a)2., that he had failed to assume parental responsibility pursuant to § 48.415(6), and that there was a continuing need of protection or services pursuant to §48.415(2). The circuit court accepted the stipulation and found Robert unfit. Following a dispositional hearing on the matter, the court terminated his parental rights.

The no-merit report addresses the following issues: (1) whether Robert's stipulation was knowingly, voluntarily, and intelligently entered and (2) whether the circuit court properly exercised its discretion at disposition by terminating his parental rights. Counsel correctly analyzed these issues and determined that they lack merit.

With respect to Robert's stipulation, the record confirms that he knowingly, voluntarily, and intelligently entered it. Prior to accepting a stipulation to a termination petition, the circuit court is required to engage the parent in a personal colloquy in accordance with WIS. STAT. § 48.422(7). Additionally, the record must establish that the parent understands the constitutional rights given up by the plea. *Kenosha Cnty. Dep't of Human Servs. v. Jodie W.*, 2006 WI 93, ¶25, 293 Wis. 2d 530, 716 N.W.2d 845. The parent must also understand that acceptance of a no contest plea will result in a finding of parental unfitness, which mandates termination of parental rights. *Oneida Cnty. Dep't of Soc. Servs. v. Therese S.*, 2008 WI App

159, ¶¶10-11, 314 Wis. 2d 493, 762 N.W.2d 122. Here, the circuit court’s colloquy prior to the acceptance of Robert’s stipulation reflects that the court satisfied these requirements. Accordingly, we agree with counsel that any challenge to the entry of the stipulation would lack arguable merit.

With respect to the circuit court’s decision at disposition to terminate Robert’s parental rights, the record demonstrates that the court properly exercised its discretion. The court’s determination of whether to terminate parental rights is discretionary. *State v. Margaret H.*, 2000 WI 42, ¶27, 234 Wis. 2d 606, 610 N.W.2d 475. 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 circuit court’s remarks reflect that it considered the appropriate factors. Those factors weighed in favor of a determination that it was in the best interests of JT N. and Veronica N. to terminate Robert’s parental rights.²

Because this court’s independent review of the record confirms that counsel has correctly analyzed the issues surrounding these cases, and because this court’s review discloses no other potential issues of arguable merit, the orders terminating Robert’s parental rights are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

² We note that Robert was not present for much of the dispositional hearing, which took place on several days over the course of nine months. He attended the first day of the hearing when produced from prison. However, once he was released from prison, he stopped attending altogether, despite being informed of subsequent court dates. Robert’s counsel remained on the case and twice moved the court for an adjournment because of his client’s absence. The court denied the motions on grounds that (1) it had previously warned Robert that the hearing would continue in his absence and (2) there was no objective basis for the request (e.g., medical records to explain Robert’s absence). We are satisfied that the circuit court properly denied counsel’s motion and continued with the hearing.

Upon the foregoing reasons,

IT IS ORDERED that the orders terminating Robert N.'s parental rights are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Paul G. Bonneson is relieved of any further representation of Robert N. in these matters. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals