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March 10, 2014

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

2013AP2716-NM	In re the termination of parental rights to Demarious H., a person under the age of 18: State of Wisconsin v. Josephine W. (L.C. #2011TP158)
2013AP2717-NM	In re the termination of parental rights to Marlandrea N., a person under the age of 18: State of Wisconsin v. Josephine W. (L.C. #2011TP159)
2013AP2718-NM	In re the termination of parental rights to Michael W., a person under the age of 18: State of Wisconsin v. Josephine W. (L.C. #2011TP160)

Before Sherman, J.

Josephine W. appeals orders that terminated her parental rights to three of her children in companion cases. Attorney Gregory Bates has filed a no-merit report seeking to withdraw as

appellate counsel. *See* WIS. STAT. RULE 809.32 (2011-12);¹ *Anders v. California*, 386 U.S. 738, 744 (1967); and *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987). The no-merit report addresses whether Josephine’s procedural rights were preserved and whether there was sufficient evidence to support the grounds and disposition determinations. Josephine was sent a copy of the report, and has filed a response complaining that her family services worker “lied on” her and failed to assist her with housing and transportation. Upon reviewing the entire record, as well as the no-merit report, we agree with counsel’s assessment that there are no arguably meritorious appellate issues.

First, Josephine stipulated to the grounds phases of the TPR proceedings, acknowledging that each of the children was a child in continuing need of protection under WIS. STAT. § 48.415(2), and that she would not be able to meet the conditions for return within the next nine months, particularly with respect to housing. The court conducted a colloquy to ensure that Josephine’s admissions were made “with understanding,” as required by WIS. STAT. § 48.422(7). *See generally Waukesha County v. Steven H.*, 2000 WI 28, 233 Wis. 2d 344, ¶42, 607 N.W.2d 607 (analogizing a stipulation to TPR grounds to the criminal plea procedure). The record does not reveal any defect in the colloquy, and Josephine is not now claiming that she misunderstood any of the information provided or that her decision was involuntary.

Next, the State presented evidence to show: (1) that each child had been adjudged in need of protection and services and placed outside the home for six months or more; (2) that the county department had made reasonable efforts to provide the services ordered by the court; (3)

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

that Josephine failed to meet the conditions established for the safe return of each child; and (4) there was a substantial likelihood that Josephine would be unable to meet the conditions within the next nine months. *See* WIS. STAT. § 48.422(7)(c) (requiring circuit court to establish factual basis before accepting admission on a TPR ground); WIS. STAT. § 48.415(2) (setting forth elements for ground of continuing need of protection and services). Caseworker Jennifer Hansen explained that Josephine continued to see a boyfriend who has been physically abusive to both her and the children, that she had cognitive deficiencies that limited her ability to perform basic parenting tasks, and that she was unable to provide stable housing for a variety of reasons. The circuit court reasonably relied upon Josephine's admission and the factual-basis evidence provided by the State to find Josephine unfit to care for the children. By entering a stipulation as to grounds, Josephine waived any right to challenge the adequacy of services she was provided.

Finally, at the dispositional hearing, the circuit court was required to consider such factors as the likelihood of the child's adoption, the age and health of the child, the nature of the child's relationship with the parents or other family members, the wishes of the child and the duration of the child's separation from the parent, with the prevailing factor being the best interests of the child. WIS. STAT. § 48.426(2) and (3). The record shows that the circuit court did so. The court acknowledged that Josephine loved the children and had attempted to comply with the conditions for return, but was persuaded by the evidence that she was incapable of satisfying the conditions. The court concluded that termination of parental rights would be in the best interests of the children because it would allow them to be adopted by the foster parents with whom they had been living and thriving for three years. In short, the record shows that the circuit court reasonably applied the proper legal standard to the facts of record when reaching its disposition.

We have discovered no other arguably meritorious grounds for an appeal. We conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

IT IS ORDERED that the orders terminating Josephine's parental rights to the three children involved in these appeals are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of any further representation of Josephine W. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals