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March 19, 2014

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

2014AP162-NM

In re the termination of parental rights to Selena L., a person under the age of 18: State of Wisconsin v. Amanda L.
(L.C. #2011TP183)

Before Reilly, J.¹

Amanda L. appeals from an order terminating her parental rights to her daughter, Selena L. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES

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

809.107(5m) and 809.32. Amanda was served with a copy of the report and advised of her right to file a response. No response has been received from Amanda. Based upon an independent review of the no-merit report and circuit court record, this court concludes that no issue of arguable merit could be raised on appeal and affirms the order.²

Selena was taken into care by the Bureau of Milwaukee Child Welfare right after her birth in August 2010. The petition for termination of parental rights was filed June 7, 2011. After numerous continuances,³ entry of a default judgment when Selena failed to appear at a pretrial hearing, and vacation of the default judgment upon a showing of good cause for the failure to appear, Selena stipulated to the failure to assume parental responsibility ground alleged in the termination petition. A contested disposition hearing was conducted. The evidence was that Selena never lived with Amanda, Selena had always lived in the same home in which her half brother was living, and that home serves as an adoptive resource for Selena. The court determined that the termination of Amanda's parental rights was in Selena's best interests.

² Amanda L. filed a timely notice of intent to pursue post-termination relief. *See* WIS. STAT. RULE 809.107(2)(bm). However, it was not discovered until more than three months after her notice was filed that counsel had not been appointed and no transcripts had been prepared. *See* RULE 809.107(4). The circuit court did not permit an adoption to move forward until Amanda's appellate rights had been addressed. For good cause, we extend the time under RULE 809.107(4) for appointing counsel and requesting transcripts to remove any potential jurisdictional infirmity and to establish the timeliness of the appeal. RULE 809.82(2)(a).

³ Under WIS. STAT. § 48.315(2), continuances of ch. 48 time limits are allowed "upon a showing of good cause in open court." "Failure to object to a ... continuance waives any challenge to the court's competency to act during the ... continuance." Sec. 48.315(3). Each time a hearing was continued or set beyond the statutory time limit, the circuit court found cause to extend the time limit and no objection was made. There is no arguable merit to any claim related to the failure to comply with the statutory time limits.

After the filing of a petition for termination of parental rights and the completion of preliminary matters, “a contested termination proceeding involves a two-step procedure.” *Sheboygan Cnty. DHHS v. Julie A.B.*, 2002 WI 95, ¶24, 255 Wis. 2d 170, 648 N.W.2d 402. The first step is a fact-finding hearing which determines whether grounds exist to terminate the parent’s rights. *Id.* If grounds for termination are found to exist, the circuit court must find that the parent is unfit. *Id.*, ¶26. Here Amanda stipulated that ground for termination existed. The second phase is the dispositional phase. *Id.*, ¶28. The court must determine whether the parent’s rights should be terminated. *Id.* The best interest of the child is the prevailing factor considered by the circuit court in making this decision. WIS. STAT. § 48.426(2). In determining the best interests of the children, the circuit court is required to consider the agency report and the factors enumerated in § 48.426(3). *Julie A.B.*, 255 Wis. 2d 170, ¶4. It is also entitled to consider other factors, including factors favorable to the parent. *Id.*

Counsel’s no-merit report addresses as potential appellate issues whether the circuit court met its obligations under WIS. STAT. § 48.422(7) in accepting Amanda’s stipulation to the failure to assume parental responsibility ground, whether Amanda’s stipulation was knowingly and voluntarily made, and whether the dispositional decision was an erroneous exercise of discretion or otherwise failed to consider the best interests of the child. Our review of the record confirms counsel’s conclusion that these potential issues lack arguable merit. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion and we need not address them further.

The record reflects that the circuit court properly exercised its discretion in ruling on the few evidentiary objections made during the dispositional hearing. Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm

the order terminating Amanda's parental rights, and discharge appellate counsel of the obligation to represent Amanda further in this appeal.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Carl W. Chesshir is relieved of any further representation of Amanda L. in this matter. *See* WIS. STAT. RULE 809.32(3).

*Diane M. Fremgen
Clerk of Court of Appeals*