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DISTRICT IV

May 6, 2014

To:

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Circuit Court Judge
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Tierra M.
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You are hereby notified that the Court has entered the following opinion and order:

2013AP2526-NM

In re the termination of parental rights to Tierra M., a person under the age of 18: Dane County Department of Human Services v. Donronnell T.V. and Tierra M. (L.C. # 2012TP54)

Before Lundsten, J.

Tierra M. appeals an order terminating her parental rights to her daughter T.M. Attorney Brian Findley 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); *State ex rel.*

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

McCoy v. Wisconsin Court of Appeals, 137 Wis. 2d 90, 403 N.W.2d 449 (1987). Tierra M. was sent a copy of the report, but has not filed a response. 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.

Bifurcation Of Grounds And Disposition Phases

The circuit court made a comment at the beginning of its bench ruling on the grounds phase that it was wrong to have six children in a period of seven years without really being able to provide for those children, given the impact those circumstances would have on the children. Appellate counsel notes that the comment could be interpreted as showing that the circuit court impermissibly considered the best interests of the child in the grounds phase. However, the court explained in post-disposition proceedings that the comment was prefatory and not part of its subsequent analysis of the relevant factors on grounds. The record supports the circuit court's explanation because the court went through each factor systematically.

Sufficiency Of The Evidence On Grounds

In order to establish the alleged termination ground of a child in continuing need of protection or services, the petitioner Dane County Department of Human Services needed to establish by clear and convincing evidence that: (1) the child had been adjudged in need of protection or services and placed outside the home for six months or more pursuant to a court order containing statutory notice of termination of parental rights proceedings; (2) the department had made reasonable efforts to provide the services ordered by the court; (3) the parent failed to meet the conditions established for the safe return of the child for reasons other than poverty; and (4) there was a substantial likelihood that the parent would not meet the

Disposition

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 methodically went through each factor and reasonably applied the proper legal standard to the facts of record when reaching its disposition.

Interests Of Justice

Finally, Tierra asked the circuit court to grant her a new trial in the interests of justice because she has another daughter whose CHIPS order expired without proceeding to termination. The circuit court's denial of that request was well within its discretion.

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 order terminating Tierra M.'s parental rights to T.M. is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Brian Findley is relieved of any further representation of Tierra M. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals