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DISTRICT II/III

July 1, 2014

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

2014AP936-NM

In re the termination of parental rights to Talon R. R., a person under the age of 18: Jay S. v. Sandra N. S. (L.C. # 2013TP29)

Before Stark, J.¹

Counsel for Sandra S. has filed a no-merit report concluding there is no arguable basis for Sandra to challenge an order terminating her parental rights to Talon R. R. Sandra was advised

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

of her right to respond to the report and has not responded. Upon this court's independent review of the record, no issue of arguable merit appears.

The amended termination of parental rights petition alleged abandonment. The petitioners were Sandra's father, Jay S., and his wife, Lisa S., who obtained guardianship of Talon in 2011 due to Sandra's mental health problems. Sandra was called adversely and testified she lived in an assisted living facility. She admitted lack of contact with Talon and admitted she stopped trying to get presents to him while he was in Lisa's care because she assumed Lisa would just discard them. Sandra testified that she had seen Talon on July 31, 2013, and had previously seen him around September 24, 2012. The court found Talon had been left with a relative or other person, Sandra had no contact with Talon for at least six months, she could have discovered his whereabouts, and good cause did not exist to excuse her lack of contact. The court found abandonment and concluded Sandra was unfit to act as Talon's parent.

The court then conducted a dispositional hearing. After further testimony from Sandra, the court found that terminating her parental rights was in Talon's best interest.

The record discloses no arguable basis for challenging the sufficiency of the evidence to support the finding of abandonment. Under WIS. STAT. § 48.415(1)(a)3., abandonment occurs when a child has been left with another person, the parent knows or could discover the child's whereabouts, and the parent has failed to visit or communicate with the child for a period of six months or longer. The court considered Sandra's defense that Jay and Lisa would not have permitted contact with Talon. The court rejected that defense, finding that, while Jay and Lisa may not have wholeheartedly endorsed contact, they did not prevent Sandra's mother, Patricia,

from seeing Talon. On at least one occasion, Patricia made Talon available for Sandra to visit, but Sandra “never showed up.”

The record also discloses no arguable basis for challenging the court’s discretionary decision to terminate Sandra’s parental rights. The evidence shows Sandra had no substantial parental relationship with Talon. Talon lived continuously with Jay and Lisa for approximately thirty months, half his life. Sandra’s continuing struggle with her mental health and Talon’s need for a more stable family life than Sandra could provide support the finding that termination was in Talon’s best interest. *See* WIS. STAT. § 48.426(3).

This court’s independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the order is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Randall Paulson is relieved of his obligation to further represent Sandra S. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals