



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I/II

September 3, 2014

To:

Hon. Pedro Colon
Circuit Court Judge
821 W State St
Milwaukee, WI 53233

Patrick Flanagan
Flanagan Law Office, LLC
759 N. Milwaukee St., #215
Milwaukee, WI 53202-3714

Dan Barlich
Juvenile Clerk
Children's Court Center
10201 W. Watertown Plank Rd.
Milwaukee, WI 53226

Anne M. Abell
Legal Aid Society of Milw, Inc.
10201 W. Watertown Plank Rd.
Milwaukee, WI 53226-3532

T. C. Dee
Asst. District Attorney
10201 W. Watertown Plank Rd.
Milwaukee, WI 53226

Arlene Happach
Bureau of Milwaukee Child Welfare
635 N. 26th St
Milwaukee, WI 53233-1803

Charlotte E. 514843
Robert Ellsworth Corr. Cntr
21425-A Spring Street
Union Grove, WI 53182-9408

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

2014AP1556-NM

In re the termination of parental rights to Carlos J., a person under the age of 18: State of Wisconsin v. Charlotte E. (L.C. #2012TP84)

Before Gundrum, J.¹

Charlotte E. appeals from an order terminating her parental rights to her son. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. Charlotte was served with a copy of the report and advised of her right to file a

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.

response. No response has been received. 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.

Charlotte's son was taken into care by the Bureau of Milwaukee Child Welfare in June 2010, four months shy of his second birthday. A petition for termination of parental rights was filed in April 2012 alleging that Charlotte had failed to assume parental responsibility and had committed a serious felony against her son. *See* WIS. STAT. § 48.415(6), (9m). Upon proof of Charlotte's October 2010 conviction of child abuse by recklessly causing great harm, summary judgment was granted on the ground that Charlotte had committed a serious felony against her son. The disposition hearing was conducted over several dates extending to December 18, 2013. In a written decision, the court determined that the termination of Charlotte's parental rights was in the child's best interests.

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 that ground for termination existed was determined by summary judgment. 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 summary judgment was properly granted, whether the dispositional decision was an erroneous exercise of discretion or not based on sufficient credible evidence, and whether Charlotte was afforded the effective assistance of counsel. 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.

Our review of the record discloses no other potential issues for appeal.² Accordingly, we accept the no-merit report, affirm the order terminating Charlotte's parental rights, and discharge appellate counsel of the obligation to represent Charlotte further in this appeal.

Upon the foregoing reasons,

² We note that time limits set forth in WIS. STAT. ch. 48 for termination proceedings were not met. However, continuances "upon a showing of good cause in open court" are allowed. WIS. STAT. § 48.315(2). 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.

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 Patrick Flanagan is relieved of any further representation of Charlotte E. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals