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March 24, 2015

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

2015AP189-NM

In re the termination of parental rights to K. S., a person under the age of 18: State of Wisconsin v. Angela E. (L. C. #2014TP105)

Before Stark, J.¹

Counsel for Angela E. has filed a no-merit report concluding there is no arguable basis for Angela to appeal an order terminating her parental rights to her daughter, K. S. Angela filed a response asking for a "second chance" and describing her plan for living with K. S. after

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Angela is released from prison. Upon this court's independent review of the record, no issue of arguable merit appears.

The petition alleged three grounds for terminating Angela's parental rights: abandonment, K. S.'s continuing need of protection and services (CHIPS), and Angela's failure to assume parental responsibility. The third ground was not pursued. Angela did not appear at the initial hearing. Because of confusion over Angela's address, the court rescheduled the initial hearing and ordered the State to make additional efforts to serve Angela with the petition. The judge attempted to contact Angela by calling a cell phone number provided by her father, and left a voicemail message for Angela to contact the case worker. The court conducted a status conference one month later at which Angela again failed to appear. The State detailed its efforts to locate her by process servers, telephone and Facebook, as well as publication. The court found Angela in default and conducted a hearing to determine whether grounds existed for termination of her parental rights.

Regarding the abandonment allegation, witnesses testified that Angela had no contact with K. S. from August 30, 2013 to February 22, 2014. Failure to have contact with the child for more than three months constitutes abandonment under WIS. STAT. § 48.415(1)(a)2.

Regarding the continuing CHIPS allegation, witnesses testified that K. S. was placed outside of Angela's home on a CHIPS petition in February 2012. The conditions for K. S.'s return to Angela's home included that she refrain from using illegal substances, create a plan for Angela to address her own emotional problems, demonstrate an ability to place K. S.'s needs above her own, establish safe and clean housing for K. S., demonstrate an understanding of how Angela's substance abuse affects K. S. and maintain a relationship with K. S. by having

successful visitations. The CHIPS order warned Angela that failure to meet these conditions would constitute grounds for termination of her parental rights. Angela met none of these conditions. The witness opined that Angela would not meet these conditions in the next nine months based on her addictions, her criminal activities, and her complete failure to address the conditions for more than two years.

Angela was taken into custody before the disposition hearing. She appeared at the hearing with an attorney and was informed of the status of the case. The court urged her to consult with her attorney about the possibility of vacating the default judgment. The court adjourned the disposition hearing to allow time for Angela to consult with her attorney.

Angela failed to appear at the continued disposition hearing. She made bail in Milwaukee County, but had bench warrants issued in two other counties. The judge again tried to contact Angela by telephone and left a voicemail message. The court again adjourned the disposition hearing for more than one month.

At the final disposition hearing, Angela again failed to appear. Witnesses testified that K. S. had no meaningful relationship with her mother and had bonded with her foster parents, who wished to adopt her. The court found termination of Angela's parental rights to be in K.S.'s best interest.

The record reveals no arguable basis for reversing the order terminating Angela's parental rights. Sufficient evidence supports the findings of abandonment, all of the elements of continuing CHIPS under WIS. STAT. § 48.415(2), and the discretionary decision to terminate Angela's parental rights based on K. S.'s best interest. Due to Angela's heroin and cocaine addiction and resort to criminal activities to support her drug habit, Angela placed her own needs

above those of K. S. and failed to meet the requirements for K. S.'s return to her home. Angela's response to the no-merit report describes her plan for living with K. S. when she completes the two-year initial confinement portion of her sentence, but states no grounds for reversing the circuit court's findings of abandonment, continuing CHIPS or K. S.'s best interest being served by facilitating adoption by a family that can provide a more stable home environment.

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

IT IS FURTHER ORDERED that attorney Timothy T. Kay is relieved of his obligation to further represent Angela in this matter.

Diane M. Fremgen
Clerk of Court of Appeals