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**DISTRICT III/IV**

May 7, 2015

To:

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

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2015AP529-NM

In re the termination of parental rights to Koda H., a person under the age of 18: Outagamie County Department of Human Services v. Robert H. (L.C. #2013TP71)

Before Blanchard, P.J.<sup>1</sup>

Robert H. appeals an order terminating his parental rights to a four-year-old daughter. Attorney Len Kachinsky has filed a no-merit report seeking to withdraw as appellate counsel. See WIS. STAT. RULE 809.32; *Anders v. California*, 386 U.S. 738, 744 (1967); *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S.

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

429. The no-merit report addresses compliance with required notices and deadlines, Robert's admission to the ground of abandonment, and the circuit court's exercise of discretion at the dispositional hearing. Robert 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.

#### *Procedural Issues*

The record supports counsel's assertion that all required notices were provided, and that all deadlines were either met or properly extended.

#### *Admission*

An admission of the alleged ground(s) in a termination of parental rights case must be made "with understanding." WIS. STAT. § 48.422(7). Courts can apply the same standard and analysis for pleas in criminal cases set forth in *State v. Bangert*, 131 Wis.2d 246, 389 N.W.2d 12 (1986), to evaluate the validity of an admission to grounds in a TPR proceeding. *Waukesha Cnty. v. Steven H.*, 2000 WI 28, ¶42, 233 Wis. 2d 344, 607 N.W.2d 607.

The record here contains both a signed plea questionnaire with an attached jury instruction and a thorough plea colloquy in which the circuit court ascertained that Robert understood the process and the rights he was waiving by admitting grounds. Additionally, Robert admitted in open court that he had failed to visit or communicate with the child for a period of three or more months after the child had been placed outside the home. *See* WIS. STAT. § 48.415(1)(a)2. We therefore agree with counsel that there is no arguable basis to challenge Robert's admission of abandonment.

*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 trial court did so. The court noted that the child had thrived in her foster placement with the maternal grandmother and step-grandfather and was highly likely to be adopted. The court acknowledged that Robert had made substantial strides in achieving sobriety and employment, but emphasized that he had failed to take steps to develop a relationship with his daughter even as his own situation improved, and had also failed to provide any support for his daughter. The court found that the child did not have a substantial bond with her father that would be harmed by termination, whereas she was already part of the family in the foster placement where she had lived for three of her four years of life. The court concluded that the child's best interests would be served by being adopted by her foster parents. In short, the record shows that the trial court reasonably applied the proper legal standard to the facts of record when reaching its disposition.

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 Robert H's parental rights to his daughter is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Len Kachinsky is relieved of any further representation of Robert H. in this matter. *See* WIS. STAT. RULE 809.32(3).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*