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June 3, 2015

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

2015AP471-NM	In re the termination of parental rights to Keirhon C., a person under the age of 18: State of Wisconsin v. Bianca C. (L.C. # 2013TP330)
2015AP472-NM	In re the termination of parental rights to Payton D., a person under the age of 18: State of Wisconsin v. Bianca C. (L.C. # 2013TP331)
2015AP473-NM	In re the termination of parental rights to Paisley D., a person under the age of 18: State of Wisconsin v. Bianca C. (L.C. # 2013TP332)
2015AP474-NM	In re the termination of parental rights to Ashlynn C., a person under the age of 18: State of Wisconsin v. Bianca C. (L.C. # 2013TP333)

Before Higginbotham, J.¹

¹ 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.

Bianca C. appeals orders terminating her parental rights to her four children: Keirhon C.; Payton C.; Paisley D.; and Ashlynn C. Attorney Duke Lehto has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses: (1) whether Bianca's no-contest plea to grounds for termination was knowing and voluntary; (2) whether the circuit court properly exercised its discretion in determining that termination of Bianca's parental rights was in the children's best interest; and (3) whether Bianca received the effective assistance of counsel. Bianca was sent a copy of the report, but has not filed a response. Upon our independent review of the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues.

On October 29, 2013, the State filed petitions to terminate Bianca's parental rights to Keirhon, Payton, Paisley, and Ashlynn. The petitions alleged grounds existed to terminate Bianca's parental rights under WIS. STAT. § 48.415(2), because the children were in continuing need of protection or services; and that under § 48.415(6), Bianca had failed to assume parental responsibility. On July 7, 2014, Bianca entered a single plea of no contest to grounds for termination of her parental right to her four children based on failure to assume parental responsibility. On September 24, 2014, the court heard evidence as to the factual basis for the grounds of failure to assume, and then found Bianca unfit. At the conclusion of the dispositional phase, the court determined that termination was in the children's best interest, and terminated Bianca's parental rights.

Before accepting Bianca's no-contest plea, the circuit court conducted a plea colloquy that established Bianca's ability to understand the proceedings, her understanding of the grounds

of failure to assume parental responsibility, the result of pleading no contest and the potential dispositions following a finding of unfitness, and the rights she would be giving up by pleading no contest. *See* WIS. STAT. § 48.422(7)(a); ***Oneida Cnty. Dep't of Soc. Servs. v. Therese S.***, 2008 WI App 159, ¶¶5-6, 314 Wis. 2d 493, 762 N.W.2d 122. The court also established that Bianca had sufficient time to discuss her decision with her lawyer and that no one had promised her anything or threatened her in any way to enter her plea. *See* § 48.422(7)(b); ***Therese S.***, 314 Wis. 2d 493, ¶¶5-6. Additionally, the court heard testimony that an adoptive resource had been identified for the children. *See* § 48.422(7)(bm).

As to a factual basis for the plea, *see* WIS. STAT. § 48.422(7)(c), the children's case manager testified to the following. Keirhon, Payton and Paisley were detained in October 2012 after Paisley was severely burned by Bianca's boyfriend and Bianca failed to promptly seek medical attention for Paisley. Ashlynn was born in January 2013, and was detained in March 2013 after she exhibited bruises to her face, back, and arm, and fractures to her wrist, elbow, and ribs. Neither Bianca nor any other adult caring for Ashlynn was able to provide a reasonable explanation of how Ashlynn was injured. As of the date of the hearing, none of the children had ever been returned to Bianca's care. Additionally, Bianca had not consistently maintained suitable housing for the children or attended the children's medical appointments and had never progressed to unsupervised visits. On this record, we agree with counsel's assessment that a challenge to the court's determination that Bianca entered a valid plea would lack arguable merit.

Next, at the dispositional phase, the court heard evidence that the children were placed together with an adoptive resource, that the children were thriving in that placement, and that they were likely to be adopted into that home following termination of their parents' parental

rights. It also heard evidence that the children were very settled in their current placement, that Bianca had not made substantial progress on the conditions of return during the significant period of time the children had been in out-of-home placement, and that the department was not close to reunifying the children with Bianca. The court considered the statutory factors and properly exercised its discretion by determining that termination of Bianca's parental rights was in the children's best interest. *See* WIS. STAT. § 48.426(3).

Finally, we agree with counsel's assessment that nothing before us would support an arguably meritorious claim of ineffective assistance of counsel.

Upon our independent review of the record, we have found no other arguable basis for reversing the orders terminating Bianca's parental rights. 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 orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Lehto is relieved of any further representation of Bianca C. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals