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August 21, 2015

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

2015AP1172-NM State v. R. M. (L. C. Nos. 2013TP291, 2013TP292)
2015AP1173-NM

Before Stark, J.¹

Counsel for R. M. has filed a no-merit report concluding there is no arguable merit to any issue that could be raised on appeal from orders concerning termination of R. M.'s parental

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 versions unless otherwise noted.

rights to two children. R. M. was informed of his right to respond to the report and has not responded. Upon this court's independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), no issues of arguable merit appear. Therefore, the orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

Petitions for termination of parental rights were filed concerning two minor children, ages twelve and thirteen. The petition alleged three-month abandonment, the children were in need of protection or services, and R. M.'s failure to assume parental responsibility as grounds to terminate his parental rights.² R. M. stipulated that the State was able to prove the ground of three-month abandonment, and R. M. conceded that he did not have good cause for his abandonment of his children between April 12, 2013 and at least August 28, 2013, aside from being in custody.³

Before accepting R. M.'s stipulation, the circuit court engaged him in a colloquy, and confirmed his understanding of the rights he waived by stipulating to grounds. The court further ascertained that R. M.'s stipulation was both knowing and voluntary, and no promises or threats were made to elicit the stipulation. The court also confirmed that medication R. M. was taking did not interfere with his ability to understand the proceedings. *See* WIS. STAT. § 48.422(7).

The circuit court informed R. M. that acceptance of his stipulation would result in a finding of parental unfitness, and during the dispositional stage of the proceedings, the court would hear evidence and then either terminate his rights or dismiss the petitions if the evidence

² The circuit court found the mother was in default as her whereabouts were unknown. The termination of the mother's parental rights is not the subject of these appeals.

³ R. M. was in custody for having accidentally shot the children's mother.

did not warrant termination. *See Oneida Cty. D.S.S. v. Therese S.*, 2008 WI App 159, ¶¶10, 16, 314 Wis. 2d 493, 762 N.W.2d 122. Further, the court informed R. M. that the best interests of the children would be the prevailing factor considered by the court in determining the dispositions. *See id.*, ¶16.

Based on the testimony of the case manager for the children, the court found sufficient evidence that the children were placed or continued in a placement outside a parental home pursuant to a court order which contained the termination of parental rights notices required by law, and that R. M. failed to visit or communicate with the children for a period of three months or longer. Therefore, there is no arguable merit to any challenge to R. M.'s stipulation to grounds.

There is also no arguable merit to a claim that the circuit court erroneously exercised its discretion when it terminated R. M.'s parental rights. The court properly considered the best interests of the children and the factors set out in WIS. STAT. § 48.426(3). The court determined it was in the children's best interests to terminate R. M.'s parental rights after considering the children's ages, the lengthy duration of separation and likelihood of adoption, the absence of any substantial relationship with R. M., their desire to remain with their foster family, and their need for a stable and permanent family relationship. The court's discretionary decision to terminate R. M.'s parental rights demonstrates a rational process that is justified by the record. *See Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996).

Our independent review of the record discloses no other potential issues for appeal. Therefore,

IT IS ORDERED that the orders concerning termination of parental rights are affirmed.

IT IS FURTHER ORDERED that attorney Timothy Kay is relieved of further representing R. M. in these matters. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals