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September 2, 2015

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

2015AP1353-NM	In re the termination of parental rights to P.C., a person under the age of 18: State of Wisconsin v. K.C. (L.C. #2011TP230)
2015AP1354-NM	In re the termination of parental rights to T.C., a person under the age of 18: State of Wisconsin v. K.C. (L.C. #2011TP232)

Before Gundrum, J.¹

K.C. appeals from orders terminating his parental rights to two of his children, P.C. and T.C. His appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES

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.

809.107(5m) and 809.32. K.C. was served with a copy of the report and advised of his right to file a response. No response has been received. Based upon an independent review of the no-merit report and circuit court records, this court concludes that no issue of arguable merit could be raised on appeal and affirms the orders.

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. The second phase is the dispositional phase. *Id.*, ¶28. The court must determine whether the parent’s rights should be terminated. *Id.* The best interests of the children 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.*

P.C. and T.C., along with other siblings,² were taken into care by the Bureau of Milwaukee Child Welfare in September 2009. At that time, P.C. was ten years old and T.C. was

² Termination petitions were filed regarding three of P.C.’s and T.C.’s siblings, whose ages fell between P.C.’s and T.C.’s. In November 2014, the termination petitions were dismissed and the CHIPS orders regarding those children were extended to allow the possibility of those children returning to their mother’s home.

two. The children had been living with their mother. K.C. was incarcerated at that time. P.C. and T.C. have not lived with either parent since that time.

The petitions for termination of parental rights were filed July 19, 2011. After numerous continuances,³ K.C. waived his right to a jury trial and stipulated to the failure to assume parental responsibility ground alleged in the termination petitions. A contested disposition hearing was conducted over several days between March and November 2014. The evidence included both P.C.'s and T.C.'s expressed desire to be adopted by their existing foster families. During his testimony, K.C. indicated that he would remain incarcerated for the next eight years. The court determined that the termination of K.C.'s parental rights was in the children's best interests.

Counsel's no-merit report addresses as potential appellate issues whether K.C. knowingly and voluntarily waived his right to a jury trial, whether the circuit court met its obligations under WIS. STAT. § 48.422(7) in accepting K.C.'s no-contest plea to the failure to assume parental responsibility ground, whether K.C.'s no-contest plea was knowingly and voluntarily made, and whether the dispositional decision was an erroneous exercise of discretion or otherwise failed to consider the best interests of the children. 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.

³ Under WIS. STAT. § 48.315(2), continuances of ch. 48 time limits are allowed "upon a showing of good cause in open court." "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.

The record reflects that the circuit court properly exercised its discretion in ruling on the few evidentiary objections made during the dispositional hearing. Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the orders terminating K.C.'s parental rights, and discharge appellate counsel of the obligation to represent K.C. further in these appeals.

Upon the foregoing reasons,

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Christine M. Quinn is relieved of any further representation of K.C. in these matters. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals