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**DISTRICT I/II**

October 21, 2015

To:

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

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2015AP1667-NM

In re the termination of parental rights to A.M., a person under the age of 18: State of Wisconsin v. L.F. (L.C. # 2014TP258)

Before Neubauer, C.J.<sup>1</sup>

L.F. appeals a circuit court order terminating his parental rights to his daughter, A.M. L.F.'s appellate counsel filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. L.F. filed a response. After reviewing the record, counsel's report, and L.F.'s response,

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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.

we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the order. *See* WIS. STAT. RULE 809.21.

A.M. was born drug positive and has resided in a foster home since March 21, 2013. At that time, she was just eight days old. She was found to be a child in need of protection or services on May 9, 2013. DNA testing completed during the subsequent dispositional hearing revealed L.F. to be her biological father.

On October 2, 2014, the State of Wisconsin petitioned to terminate L.F.'s parental rights on grounds that (1) he failed to assume parental responsibility and (2) A.M. was a child in continuing need of protection or services. *See* WIS. STAT. § 48.415(2) and (6). After a bench trial,<sup>2</sup> the circuit court found that both grounds were proven and made the requisite finding of unfitness. It then terminated L.F.'s parental rights after a dispositional hearing. This no-merit appeal follows.

The no-merit report addresses the following issues: (1) whether the evidence presented at trial was sufficient to sustain the circuit court's finding of unfitness and (2) whether the court properly exercised its discretion at the dispositional hearing in terminating L.F.'s parental rights. We agree with appellate counsel that these issues would not have arguable merit for appeal.

With respect to the finding of unfitness, we must consider the evidence in a light most favorable to the determination made by the circuit court. *Tang v. C.A.R.S. Prot. Plus, Inc.*, 2007 WI App 134, ¶19, 301 Wis. 2d 752, 734 N.W.2d 169. Our review of the trial transcripts

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<sup>2</sup> L.F. waived his right to a jury trial. The circuit court conducted a personal colloquy on the record to verify that his waiver was knowing, voluntary, and intelligent.

persuades us that the State produced sufficient evidence to prove both grounds for termination, i.e., that L.F. failed to assume parental responsibility and that A.M. was a child in continuing need of protection or services. Once the court found that these grounds were proven, it was required to find L.F. unfit. *See* WIS. STAT. § 48.424(4).

With respect to the decision at the dispositional hearing, the record demonstrates that the circuit court properly exercised its discretion. The court's determination of whether to terminate parental rights is discretionary. *State v. Margaret H.*, 2000 WI 42, ¶27, 234 Wis. 2d 606, 610 N.W.2d 475. Under WIS. STAT. § 48.426(2), the "best interests of the child" is the prevailing standard, and the court is required to consider the factors delineated in § 48.426(3) in making this determination. *Margaret H.*, 234 Wis. 2d 606, ¶¶34-35. Here, the circuit court's remarks reflect that it considered the appropriate factors. Those factors weighed in favor of a determination that it was in the best interests of A.M. to terminate L.F.'s parental rights.

As noted, L.F. filed a response to the no-merit report. In it, he admits not doing enough to obtain custody of A.M. However, he asserts that he has provided for her in many ways. He also reiterates his love for her and maintains that he has changed because of that love. Although we are sympathetic to L.F.'s response, none of his assertions change our analysis regarding the propriety of the circuit court order terminating his parental rights.<sup>3</sup> As a result, we are satisfied that his response does not present an issue of arguable merit.

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<sup>3</sup> The circuit court acknowledged that L.F.'s relationship with A.M. was a positive one. However, it did not find that relationship to be substantial. The record supports this determination.

Our independent review of the record does not disclose any potentially meritorious issue for appeal. Because we conclude that there would be no arguable merit to any issue that could be raised on appeal, we accept the no-merit report and relieve Attorney Jeff T. Wilson of further representation in this matter.

Upon the foregoing reasons,

IT IS ORDERED that the order terminating L.F.'s parental rights is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jeff T. Wilson is relieved of any further representation of L.F. in this matter. *See* WIS. STAT. RULE 809.32(3).

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*Diane M. Fremgen  
Clerk of Court of Appeals*