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**DISTRICT I/II**

November 9, 2016

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

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2016AP1884-CRNM     In re the termination of parental rights to A.W., a person under  
the age of 18: State of Wisconsin v. A.G.M. (L.C. #2015TP63)

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

A.G.M. appeals from an order granting an involuntary termination of her parental rights (TPR) to her son, A.W.<sup>2</sup> Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32 and *Brown County v. Edward C.T.*, 218 Wis. 2d 160, 161, 579

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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.

<sup>2</sup> The parental rights of A.W.'s father are not at issue in this appeal.

N.W.2d 293 (Ct. App. 1998) (per curiam). A.G.M. received a copy of the report and was advised of her right to file a response but she has not done so. After considering the no-merit report and independently reviewing the record, we summarily affirm the order because we conclude there are no issues with arguable merit for appeal. *See* WIS. STAT. RULE 809.21.

A.W. was born two months prematurely in November 2013. He remained hospitalized for five weeks. On his discharge, the Bureau of Milwaukee Child Welfare placed him in foster care due to concerns about his continuing cardiac and pulmonary problems, A.G.M.'s own unmanaged health issues and her precarious living arrangements and other personal issues. A.W. has been in the same home since then; it now is the adoptive resource. Four of A.G.M.'s older children also are in out-of-home placements; a fifth lives with his biological father.

In March 2015, the State filed a TPR petition alleging that A.W. continued to be a child in need of protection or services (CHIPS) and failure to assume parental responsibility, pursuant to WIS. STAT. § 48.415(2) and (6). After numerous continuances, A.G.M. waived her right to a jury trial and entered a no-contest plea to the ground of continuing CHIPS. The failure-to-assume-parental-responsibility count was dismissed on the State's motion. Finding that the State proved continuing CHIPS by clear, satisfactory, and convincing evidence, the court found A.G.M. to be an unfit parent. The TPR was granted after a contested dispositional hearing. This no-merit appeal followed.

Wisconsin has a two-part statutory procedure for an involuntary TPR. *Steven V. v. Kelley H.*, 2004 WI 47, ¶24, 271 Wis. 2d 1, 678 N.W.2d 856. In the grounds phase, the petitioner must prove by clear and convincing evidence that at least one of the twelve grounds enumerated in WIS. STAT. § 48.415 exists. *See* WIS. STAT. § 48.31(1); *Steven V.*, 271 Wis. 2d 1,

¶¶24-25. In the dispositional phase, the court must decide if it is in the child's best interest that the parent's rights be permanently extinguished. WIS. STAT. § 48.426(2); *Steven V.*, 271 Wis. 2d 1, ¶27.

Counsel's no-merit report addresses as potential appellate issues whether: the circuit court met its obligations under WIS. STAT. § 48.422(7) in accepting A.G.M.'s no-contest plea to the continuing CHIPS ground; her no-contest plea was knowingly, intelligently, and voluntarily made; the record contains sufficient credible evidence to support both the court's finding of parental unfitness and its dispositional decision, such that the court did not erroneously exercise its discretion nor otherwise fail to consider A.W.'s best interests; and A.G.M. was afforded effective assistance of counsel. As the no-merit report capably discusses these potential issues to support the no-merit conclusion, we need not address them further. Our review of the record confirms counsel's conclusion that these potential issues lack arguable merit.

We independently consider whether there is arguable merit to any claim related to the failure to comply with the statutory time limits. Continuances of WIS. STAT. ch. 48 time limits are allowed "upon a showing of good cause in open court." WIS. STAT. § 48.315(2). "Failure to object to a period of delay or a continuance waives any challenge to the court's competency to act during the period of delay or continuance." Sec. 48.315(3). Each time a hearing was continued or set beyond the statutory time limit, the circuit court found good cause to extend the time limit. No objection was made. There is no arguable merit to any claim on this issue.

We also consider whether A.G.M. knowingly and voluntarily waived her right to a jury trial. The right to a jury trial in a TPR case is a statutory right under WIS. STAT. §48.422(4), not a constitutional right. *Steven V.*, 271 Wis. 2d 1, ¶34. TPRs are civil, not criminal, proceedings.

*Id.*, ¶32. Accordingly, while it is a “good idea” for the circuit court to engage in a personal colloquy when a parent waives his or her right to a jury trial, it is not obliged to do so. *Racine Cty. Human Servs. Dep’t v. Latanya D.K.*, 2013 WI App 28, ¶21, 346 Wis. 2d 75, 828 N.W.2d 251. In any event, the court here undertook a careful colloquy to ensure that A.G.M.’s jury trial waiver was knowingly, intelligently, and voluntarily made. No issue of arguable merit could be raised.

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. We therefore accept the no-merit report, affirm the orders terminating A.G.M.’s parental rights, and discharge appellate counsel of the obligation to represent A.G.M. further in this appeal.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Patrick Flanagan is relieved of any further representation of A.G.M. in these matters. *See* WIS. STAT. RULE 809.32(3).

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