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DISTRICT IV/II

April 5, 2017

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

2017AP269-NM	In re the termination of parental rights to I.J.M., a person under the age of 18: Wood County DHS v. M.M.M. (L.C. #2016TP10)
2017AP270-NM	In re the termination of parental rights to S.M.M., a person under the age of 18: Wood County DHS v. M.M.M. (L.C. #2016TP11)

Before Gundrum, J.¹

In these consolidated cases, M.M.M. appeals from orders terminating her parental rights to her children, I.J.M. and S.M.M. M.M.M.'s appellate counsel filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. M.M.M. received a copy of the report, was

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version.

advised of her right to file a response, and has elected not to do so. After reviewing the record and counsel's report, we conclude that there are no issues with arguable merit for appeal. Therefore, we summarily affirm the orders. *See* WIS. STAT. RULE 809.21.

S.M.M. was removed from M.M.M.'s home on January 14, 2015, due to neglect. At that time, she was three and one-half years old. I.J.M. was taken into custody on January 23, 2015, one day after his birth. The circuit court found both S.M.M. and I.J.M. to be children in need of protection or services on February 4, 2015.

On April 1, 2016, Wood County Human Services Department petitioned to terminate M.M.M.'s parental rights on the ground that S.M.M. and I.J.M. were in continuing need of protection or services. *See* WIS. STAT. § 48.415(2). After a bench trial, the circuit court found that the ground was proven and made the requisite finding of unfitness. It then terminated M.M.M.'s parental rights after a dispositional hearing. These no-merit appeals follow.

The no-merit report addresses whether the evidence presented at trial was sufficient to sustain the circuit court's finding of unfitness. In reviewing this issue, we must consider the evidence in a light most favorable to the circuit court's determination. *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 persuades us that the County produced ample evidence to show that S.M.M. and I.J.M. were in continuing need of protection or services. *See* WIS. STAT. § 48.415(2). Once this ground was proven, the circuit court was required to find M.M.M. unfit. *See* WIS. STAT. § 48.424(4).

The no-merit report also addresses whether the circuit court properly exercised its discretion at the dispositional hearing in terminating M.M.M.'s parental rights. 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 S.M.M. and I.J.M. to terminate M.M.M.’s parental rights.

Finally, the no-merit report addresses several other issues, including (1) whether the circuit court adhered to statutory deadlines and had competency to proceed, (2) whether M.M.M.’s waiver of her right to a jury trial was valid, (3) whether the circuit court properly dismissed M.M.M.’s guardian ad litem from the case,² (4) whether the circuit court admitted improper evidence at trial, and (5) whether M.M.M.’s adversary counsel was ineffective. The no-merit report thoroughly discusses these issues. We agree with appellate counsel that these issues do not have arguable merit for appeal and we will not discuss them further.

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 Steven W. Zaleski of further representation in these matters.

² M.M.M. appeared at the initial hearing on the petitions with a guardian ad litem who had been appointed for her in connection with the underlying cases, which had adjudged S.M.M. and I.J.M. to be children in need of protection or services. Once M.M.M. obtained adversary counsel, she informed the court that she no longer needed the guardian ad litem and understood what both her adversary counsel and the court were saying. The guardian ad litem agreed that his presence was no longer necessary. Based upon these representations, the circuit court dismissed him.

Upon the foregoing reasons,

IT IS ORDERED that the orders terminating M.M.M.'s parental rights are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Steven W. Zaleski is relieved of any further representation of M.M.M. in these matters. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals