



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I/IV

November 29, 2017

To:

Hon. Laura Gramling Perez
Circuit Court Judge
10201 W. Watertown Plank
Milwaukee, WI 53226

Christie A. Christie
Legal Aid Society of Milwaukee
10201 Watertown Plank Rd.
Milwaukee, WI 53226-3532

Josh Steib
Juvenile Clerk
Children's Court Center
10201 W. Watertown Plank Rd.
Milwaukee, WI 53226

Division of Milwaukee Child Protective
Services
Dr. Robin Joseph
635 North 26th Street
Milwaukee, WI 53233-1803

Dennis Schertz
Schertz Law Office
P.O. Box 133
Hudson, WI 54016

S. H.
2575 N. 37th. St., - Apt. 2
Milwaukee, WI 53210

Sara J.S. Waldschmidt-DeSmet
Assistant District Attorney
10201 W Watertown Plank Rd
Wauwatosa, WI 53226-3532

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

2017AP1809-NM	In re the termination of parental rights to N.A., a person under the age of 17: State of Wisconsin v. S. H. (L.C. # 2016TP231)
2017AP1810-NM	In re the termination of parental rights to M.H., a person under the age of 17: State of Wisconsin v. S. H. (L.C. # 2016TP232)

Before Blanchard, J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2015-16).

S.H. appeals orders terminating her parental rights to two children, N.A. and M.H. Attorney Dennis Schertz has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 (2015-16);² *Anders v. California*, 386 U.S. 738, 744 (1967); and *State ex rel. McCoy v. Wisconsin Court of Appeals*, 137 Wis. 2d 90, 403 N.W.2d 449 (1987), *aff'd*, 486 U.S. 429 (1988). The no-merit report addresses S.H.'s pleas on the grounds phase, counsel's performance, the circuit court's exercise of discretion at disposition, and multiple extensions of scheduled hearings. S.H. was sent a copy of the report, but has not filed a response. Upon reviewing the entire record, as well as the no-merit report, I agree with counsel's assessment that there are no arguably meritorious appellate issues.

Plea

An admission of the alleged grounds in a termination of parental rights case must be made "with understanding." WIS. STAT. § 48.422(7). Courts can apply the same standard and analysis set forth in *State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986), for pleas in criminal cases to evaluate the validity of an admission to grounds in a TPR proceeding. *Waukesha County v. Steven H.*, 2000 WI 28, ¶42, 233 Wis. 2d 344, 607 N.W.2d 607.

The record here contains a plea colloquy in which the circuit court ascertained that S.H. understood the process and the rights she was waiving by pleading no contest to the ground that the children were in continuing need of protection and services. The State then presented evidence to establish that there was a factual basis to determine that the children were, in fact, in continuing need of protection and services, and that S.H. was unfit to care for them. *See* WIS.

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

STAT. § 48.415(2); WIS JI—CHILDREN 324. The record shows that S.H. responded appropriately to questions during the colloquy and counsel has not informed this court that S.H. is claiming to have misunderstood any of her rights or the nature of the proceedings. I conclude that there is no arguable basis to challenge S.H.'s pleas.

Disposition

At the dispositional hearing, the circuit court was required to consider such factors as the likelihood of each child's adoption, the age and health of each child, the nature of each child's relationship with the parents or other family members, the wishes of each child and the duration of the child's separation from the parent, with the prevailing factor being the best interests of the children. *See* WIS. STAT. §§ 48.426(2) and (3). The record shows that the circuit court did so, discussing among other things the high probability that the children would be adopted by their foster parents, the mental health challenges the children faced and improvements they had made since their removal, the considerable length of the children's separation from S.H., and the permanency and stability that would result from termination. In short, the record shows that the circuit court reasonably applied the proper legal standard to the facts of record when reaching its disposition.

Assistance of Counsel

The record shows that trial counsel cross-examined the State's witnesses at the dispositional hearing, and presented witnesses in S.H.'s defense. I see nothing in the record to suggest that trial counsel provided ineffective assistance.

Deadlines

A trial in this matter was rescheduled several times before S.H. ultimately entered her pleas. However, I agree with counsel that the court's congested schedule provided good cause for the postponements.

Conclusion

Upon my review of the record, I have discovered no other arguably meritorious grounds for an appeal. I conclude that any further appellate proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

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

IT IS FURTHER ORDERED that Attorney Dennis Schertz is relieved of any further representation of S.H. in these matters. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Diane M. Fremgen
Clerk of Court of Appeals