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DISTRICT I/III

May 11, 2018

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

2018AP385-NM
2018AP386-NM

State of Wisconsin v. R. D. (L. C. Nos. 2016TP57, 2016TP58)

Before Seidl, J.¹

¹ These appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version. This court consolidated the appeals for briefing and disposition purposes.

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).

Counsel for R.D. has filed a no-merit report concluding there is no basis to challenge orders concerning termination of parental rights to two children, M.C. and S.C. R.D. was advised of her right to respond and has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude there is no arguable merit to any issue that could be raised on appeal and we summarily affirm. WIS. STAT. RULE 809.21.

The two children were removed from R.D.'s care on September 10, 2014, due to concerns about R.D.'s ability to protect and care for her children. Dispositional orders placed the children outside the home in an approved placement. On February 18, 2016, petitions were filed seeking the termination of parental rights of R.D. and the adjudicated father.² The grounds asserted for termination were failure to assume parental responsibility and continuing need of protection and services (CHIPS).

The petitions alleged R.D. had a lengthy history of neglecting children dating back to the 1990s. The petitions alleged that R.D. was unable to provide a safe, suitable and stable home for her children, and the family was living in "very poor conditions." The home and the children had a "foul odor," and there was "trash everywhere, very little lighting and both bathrooms were filthy with grime in the tub and toilet." It was further alleged R.D. "allowed for others to use and sell drugs from her home, sometimes in front of the children." A history of domestic abuse was

² The termination of parental rights regarding the father is not at issue in these appeals.

also alleged, including the children's father breaking R.D.'s arm and "beat[ing] on her all the time, all night long."

Testimony at the fact-finding trial revealed that five children had previously been removed from R.D.'s care. Testimony also established that R.D. did not avoid those who used drugs and alcohol, and she did not parent the children such that they were a priority. It was established that R.D. did not keep the children clean, sometimes served them moldy food, and failed to provide adequate medical or dental care. R.D. testified she was no longer in a relationship with the children's father. R.D. admitted that the domestic abuse allegations were true, and that the children's father was using and selling drugs out of their house. Although R.D. denied a relationship with another man who subsequently lived with her, R.D. told a case manager this individual was her fiancé. Information was presented that this individual was on parole for armed robbery, and he was trafficking drugs in the house. R.D. stated that she was going to move from the residence but would still see this individual. R.D. had been referred for services but had not met the goals of the dispositional orders, and it was not believed R.D. would meet the goals within the next nine months. A psychologist testified that R.D. was cognitively and developmentally delayed and was at the third or fourth grade level for basic skills. Testimony established R.D. did not manage her mental health.

A jury found grounds for termination of parental rights on both grounds as alleged. After a dispositional hearing, the circuit court terminated R.D.'s parental rights. The court considered the factors set forth in WIS. STAT. § 48.426(3), particularly the age, health, and adoptability of the children, the need for permanency, and their relationship with the foster parents. The court specifically found that it would not be harmful to sever the legal relationship and that each child had been separated from R.D. for a significant period of time. The children wished to live with

the foster parents and the court found they would be in a more stable and permanent family relationship if R.D.'s parental rights were terminated.

The no-merit report addresses: (1) whether there were procedural defects in the proceedings; (2) whether the evidence was sufficient to establish the grounds; (3) whether any rulings were prejudicial and warranted a new trial; and (4) whether the circuit court erroneously exercised its discretion in terminating R.D.'s parental rights. This court is satisfied that the no-merit report properly analyzes the issues raised, and we will not discuss them further.

Our independent review of the record discloses no other potential issue for appeal.

Therefore,

IT IS ORDERED that the orders are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Leonard D. Kachinsky is relieved of his obligation to further represent R. D. in these matters. *See* WIS. STAT. RULE 809.32(3).

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

Sheila T. Reiff
Clerk of Court of Appeals