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DISTRICT I/II

May 23, 2018

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

2018AP575-NM	In re the termination of parental rights to M.E.S., III: State of Wisconsin v. K.A.S. (L.C. # 2017TP20)
2018AP576-NM	In re the termination of parental rights to D.S.: State of Wisconsin v. K.A.S. (L.C. # 2016TP101)

Before Neubauer, C.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 unless otherwise noted.

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).

K.A.S. appeals from orders terminating her parental rights to two children. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. K.A.S. was served with a copy of the report and advised of her right to file a response. She has not filed a response. Based upon the no-merit report and an independent review of circuit court records, this court concludes that no issue of arguable merit could be raised on appeal and affirms the orders.

In February 2015, D.S. and an older brother² were removed from their parents' care. D.S. was fifteen months old. M.E.S., III, born in March 2016, went from the hospital to the same foster home as his older brothers. Petitions for the termination of K.A.S.'s parental rights alleged that she had failed to assume parental responsibility and that the children were in continuing need of protection or services.³ *See* WIS. STAT. § 48.415(2), (6).

After the filing of a petition for termination of parental rights and the completion of preliminary matters, “a contested termination proceeding involves a two-step procedure.” *Sheboygan Cty. DHHS v. Julie A.B.*, 2002 WI 95, ¶24, 255 Wis. 2d 170, 648 N.W.2d 402. The first step is a fact-finding hearing which determines whether grounds exist to terminate the

² A petition for termination of K.A.S.'s rights to the older child was dismissed by stipulation of the parties.

³ The petitions were filed ten months apart—in March 2016, and January 2017. On the parents' motion, the circuit court joined the petitions.

parent's rights. *Id.* If grounds for termination are found to exist, the circuit court must find that the parent is unfit. *Id.*, ¶26.

The second phase is the dispositional phase. *Id.*, ¶28. The court must determine whether the parent's rights should be terminated. *Id.* The best interest of the child is the prevailing factor considered by the circuit court in making this decision. WIS. STAT. § 48.426(2). In determining the best interest of the child, the circuit court is required to consider the agency report and the factors enumerated in § 48.426(3). *Julie A.B.*, 255 Wis. 2d 170, ¶4. It is also entitled to consider other factors, including factors favorable to the parent. *Id.*

K.A.S. stipulated to the failure to assume parental responsibility ground. After accepting her stipulated admission, the circuit court heard proof of the factual basis for that ground and made the required finding of parental unfitness. The dispositional hearing took place over several days and there was testimony from the children's parents, foster mother, social workers, therapist, and visitation worker. The foster parents were identified as an adoptive resource for the children. The court determined that termination of parental rights was in the best interests of the children.⁴

Counsel's no-merit report recites the evidence produced at the plea taking and disposition. It addresses as potential appellate issues whether the mandatory time limits were met, whether the petitions satisfied the content requirements set forth in WIS. STAT. § 48.42(1), whether K.A.S.'s stipulation was voluntarily, knowingly, and intelligently made and the circuit

⁴ The father's parental rights were also terminated. The father's appeals are Nos. 2018AP577-NM and 2018AP578-NM.

court met its obligations under WIS. STAT. § 48.422(7) in accepting the stipulation to the failure to assume parental responsibility ground, whether a factual basis for the ground was established, and whether the circuit court properly exercised its discretion in determining the best interests of the children and terminating K.A.S.'s parental rights. Our review of the record confirms counsel's discussion of these potential issues and conclusion that they lack arguable merit. We need not address them further.

Our review of the record discloses no other potential issues for appeal. Accordingly, we accept the no-merit report, affirm the orders terminating K.A.S.'s parental rights, and discharge appellate counsel of the obligation to represent K.A.S. further in these appeals.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Leon W. Todd III is relieved of any further representation of K.A.S. 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