



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/II

May 23, 2018

To:

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

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

Gregory Bates
Bates Law Offices
P.O. Box 70
Kenosha, WI 53141-0070

Lara Parker
Milwaukee County District Attorneys Office
10201 Watertown Plank Rd.
Wauwatosa, WI 53226-3532

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

M. E. S. Jr.
837 S. 86th St.
West Allis, WI 53214-2905

Leon W. Todd III
Assistant State Public Defender
735 N. Water St., Ste. 912
Milwaukee, WI 53202-4116

Deanna M. Weiss
Legal Aid Society of Milwaukee
10201 Watertown Plank Rd.
Milwaukee, WI 53226

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

2018AP577-NM	In the interest of D.S.: State of Wisconsin v. M.E.S., Jr. (L.C. # 2016TP101)
2018AP578-NM	In the interest of M.E.S., III: State of Wisconsin v. M.E.S., Jr. (L.C. # 2017TP20)

Before Hagedorn, 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).

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

D.S. was removed from his parents' care when he was fifteen months old, in February 2015.² M.E.S., III, born in March 2016, went from the hospital to the same foster care home as his older brothers. Petitions for the termination of M.E.S., Jr.'s, parental rights alleged that he 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 parent's rights. *Id.* If grounds for termination are found to exist, the circuit court must find that

² An older brother was removed at the same time. A petition for termination of M.E.S., Jr.'s, rights to the older child was dismissed by stipulation of the parties and is not before this court.

³ On March 26, 2016, the petition regarding D.S. was filed. The petition regarding M.E.S., III, was filed January 25, 2017. On the parents' motion, the circuit court joined the petitions.

the parent is unfit. *Id.*, ¶26. Here, M.E.S., Jr., entered a no contest plea to the continuing CHIPS ground as to D.S. and the failure to assume parental responsibility ground as to M.E.S., III. The circuit court heard proof of the factual basis for those grounds.

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.*

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 addresses as potential appellate issues whether statutory time limits were met, whether the circuit court met its obligations under WIS. STAT. § 48.422(7) in accepting M.E.S., Jr.'s, no contest plea to the grounds for termination, whether the plea was knowingly and voluntarily made, whether there was a sufficient factual basis to find M.E.S., Jr., to be an unfit parent, and whether the dispositional decision was based on sufficient evidence, was an erroneous exercise of discretion, or otherwise failed to consider the best interests of the

⁴ The mother's parental rights were also terminated. The mother's appeals are Nos. 2018AP575-NM and 2018AP576-NM.

children. Our review of the record confirms counsel's conclusion that these potential issues lack arguable merit. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion and 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 M.E.S., Jr.'s, parental rights, and discharge appellate counsel of the obligation to represent M.E.S., Jr., 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 Gregory Bates is relieved of any further representation of M.E.S., Jr., in these matters. *See* WIS. STAT. RULE 809.32(3).

IT IS FURTHER ORDERED that this summary disposition order 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).

Sheila T. Reiff
Clerk of Court of Appeals