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**DISTRICT I**

August 14, 2019

To:

Hon. Christopher R. Foley  
Circuit Court Judge  
901 N. 9th St., Rm. 403  
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P. R.

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

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2019AP1113-NM	In re the termination of parental rights to D.R., a person under the age of 18: State of Wisconsin v. P.R. (L.C. # 2018TP4)
2019AP1114-NM	In re the termination of parental rights to D.H., a person under the age of 18: State of Wisconsin v. P.R. (L.C. # 2016TP321)
2019AP1115-NM	In re the termination of parental rights to D.R., a person under the age of 18: State of Wisconsin v. P.R. (L.C. # 2016TP322)
2016AP1116-NM	In re the termination of parental rights to G.W., Jr., a person under the age of 18: State of Wisconsin v. P.R. (L.C. # 2016TP323)

Before Brash, P.J.<sup>1</sup>

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 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).**

In these consolidated cases, P.R. appeals from orders involuntarily terminating her parental rights to four children. Attorney Carl W. Chessir was appointed to represent P.R. on appeal and filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. P.R. received a copy of the report and was advised of her right to file a response, but she has not done so. Upon consideration of the no-merit report and an independent review of the record, we conclude that no issues would have arguable merit for appeal. Therefore, we summarily affirm the orders terminating P.R.'s parental rights. *See* WIS. STAT. RULE 809.21.

In 2015, three of P.R.'s children were placed outside the home pursuant to dispositional orders finding that they were children in need of protection and services (CHIPS). In October 2016, the State petitioned to terminate P.R.'s parental rights on the grounds of continuing CHIPS, *see* WIS. STAT. § 48.415(2), and failure to assume parental responsibility, *see* § 48.415(6). A fourth child, D.R., was born about two months later and was immediately removed from P.R.'s physical custody. D.R. remained out of the home pursuant to a June 2017 CHIPS dispositional order, and the State filed a TPR petition as to D.R. alleging continuing CHIPS and failure to assume parental responsibility. As to P.R.'s parental interests, all four petitions were joined for trial.<sup>2</sup>

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<sup>2</sup> However, at P.R.'s request, her cases were severed and heard separately from the petitions to terminate the fathers' rights.

Jury selection began. After the lunch recess, P.R.'s attorneys informed the court that she had changed her mind and wanted to accept the State's offer, which was to plead no contest to the continuing CHIPS ground in the petitions and have the dispositional hearing set over for sixty days. The circuit court engaged in an extensive colloquy with P.R. and she pled no contest to the continuing CHIPS ground. After a contested dispositional hearing, the circuit court took the matter under advisement and issued a written decision concluding that terminating P.R.'s parental rights was in the best interests of all four children. P.R. appeals the orders terminating her parental rights.

The no-merit report first addresses whether P.R.'s pleas were knowingly, voluntarily, and intelligently made and had a factual basis. Before accepting a plea, the circuit court is required to engage the parent in a personal colloquy in accordance with WIS. STAT. § 48.422(7). Additionally, the record must establish that the parent understands the constitutional rights given up by the plea. *Kenosha Cty. DHS v. Jodie W.*, 2006 WI 93, ¶25, 293 Wis. 2d 530, 716 N.W.2d 845. The parent must also understand that acceptance of the plea will result in a finding of unfitness. *Oneida Cty. DSS v. Therese S.*, 2008 WI App 159, ¶¶10-11, 314 Wis. 2d 493, 762 N.W.2d 122. Here, the circuit court's colloquy satisfied these requirements. The court also correctly determined that a factual basis existed based upon the evidence presented by the State.

Next, the no-merit report discusses whether the circuit court properly exercised its discretion at the dispositional hearing in terminating P.R.'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 expressly considered the statutory factors in light of the appropriate legal standard and the facts of record. In pertinent part, the circuit court found that the children were adoptable and likely to be adopted by their “committed adoptive resources.” The court acknowledged that “[t]he children instinctively love their mother and she loves them,” but found that despite extensive intervention, P.R. continued to make decisions and act in ways that endangered her children such that “her relationship with her children is not substantial and there is no likelihood of safe reunification in the foreseeable future.” The court’s discretionary decision to terminate P.R.’s parental rights demonstrates a rational process that is justified by the record. See *Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996).

The final issue discussed in the no-merit report is whether the circuit court erred in denying P.R.’s motion to adjourn the dispositional hearing. Just before disposition, P.R. moved to adjourn on the ground that the State had recently filed a petition to terminate her parental rights to her fifth and oldest child. The court considered its “responsibility to a lot of different people and entities here,” including P.R.’s interests, and denied the request, stating that further delay was not justifiable. Whether to grant an adjournment is a discretionary decision for the circuit court. *State v. Leighton*, 2000 WI App 156, ¶27, 237 Wis. 2d 709, 616 N.W.2d 126. The circuit court considered the facts of record and reasoned its way to a rational result. No arguable issue arises from the circuit court’s decision not to adjourn the dispositional hearing.

Our independent review of the record does not disclose any other 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 Chessir of further representation of P.R. in these matters.

Upon the foregoing reasons,

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

IT IS FURTHER ORDERED that Attorney Carl W. Chessir is relieved from further representing P.R. in these matters. *See* WIS. STAT. RULE 809.32(3).

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

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*Sheila T. Reiff*  
*Clerk of Court of Appeals*