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DISTRICT III

October 29, 2019

To:

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Circuit Court Judge
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Eau Claire, WI 54703

Jean Gay
Juvenile Clerk
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You are hereby notified that the Court has entered the following opinion and order:

2019AP1499-NM Eau Claire County Department of Human Services v. C. M. H.
(L. C. No. 2018TP18)

Before Hruz, 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).

Charlotte appeals from an order terminating her parental rights (TPR) to her son Logan.² Attorney Leonard Kachinsky has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32; *Anders v. California*, 386 U.S. 738, 744 (1967). The

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2017-18). All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

² Pursuant to WIS. STAT. RULE 809.81(8), we use pseudonyms instead of the parties' names in this confidential matter.

no-merit report sets forth the history of the case and addresses the lack of procedural defects, the sufficiency of the evidence, evidentiary rulings made by the circuit court, and the sufficiency of the court's exercise of discretion in determining the disposition. Charlotte was advised of her right to respond to the report, but she has not filed a response. Upon our independent review of the entire record, as well as the no-merit report, we conclude that counsel may be allowed to withdraw and the TPR order may be summarily affirmed. *See* WIS. STAT. RULE 809.21.

The Eau Claire County Department of Human Services petitioned to terminate Charlotte's parental rights based upon the alleged grounds of abandonment and a child in continuing need of protection or services (CHIPS). The matter was tried to the circuit court after Charlotte waived her right to a jury trial. The County presented evidence that Logan had been placed in foster care on October 6, 2016, and had remained outside of the home for over six months. In addition, Charlotte had failed to visit or communicate with Logan for a period of over ninety days and had not met several conditions for the child's return—including by failing to follow through with AODA treatment for methamphetamine use and psychological services for her bipolar disorder, and by failing to maintain safe and suitable housing. At the dispositional hearing, the court found that termination was in Logan's best interest because he had tested positive for methamphetamine while in Charlotte's care; he was very young at the time of removal and had not developed a substantial relationship with Charlotte or other family members; and he was thriving in foster care and was likely to be adopted.

We agree with counsel's analysis and conclusion that any challenge to the procedures followed in this case, the sufficiency of the evidence, the circuit court's evidentiary rulings or its exercise of discretion at disposition would lack arguable merit. Our independent review of the record discloses no other potential issues for appeal. We conclude that any further appellate

proceedings would be wholly frivolous within the meaning of *Anders* and WIS. STAT. RULE 809.32.

Therefore,

IT IS ORDERED that the order terminating the appellant's parental rights is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Leonard Kachinsky is relieved of further representing the appellant in this matter. *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