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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 II

July 28, 2021

To:

Hon. Jodi L. Meier
Circuit Court Judge
Electronic Notice

Erica Reinke
Assistant District Attorney
Electronic Notice

Rebecca Matoska-Mentink
Juvenile Clerk
Kenosha County
Electronic Notice

Steven Zaleski
Electronic Notice

Michael D. Graveley
District Attorney
Electronic Notice

Brenda J. Dahl
Brenda Dahl Law Offices
620 56th St.
Kenosha, WI 53140

J. C. T.

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

2021AP380-NM
2021AP381-NM

Kenosha County DHS v. J.C.T. (L.C. #2019TP91)
Kenosha County DHS v. J.C.T. (L. C. #2019TP92)

Before Gundrum, 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).

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted. Pursuant to WIS. STAT. RULE 809.107, an opinion from this court was due on July 19, 2021. Conflicts in this court's calendar have resulted in a short delay in the opinion's release. It is therefore necessary for this court to sua sponte extend the deadline for a decision in this case. See WIS. STAT. RULE 809.82(2)(a) ("the court upon its own motion ... may enlarge or reduce the time prescribed by these rules or court order for doing any act"); *Rhonda R.D. v. Franklin R.D.*, 191 Wis. 2d 680, 694, 530 N.W.2d 34 (Ct. App. 1995). We extend our deadline accordingly.

Counsel for J.C.T. filed a no-merit report pursuant to WIS. STAT. RULE 809.32, concluding there is no arguable basis for challenging the orders terminating J.C.T.'s parental rights to her children, J.C.J. and S.R.J. J.C.T. was advised of her right to respond to the report and has not responded. Upon this court's independent review of the records as mandated by *Anders v. California*, 386 U.S. 738 (1967), no issue of arguable merit appears. Therefore, the orders terminating J.C.T.'s parental rights are summarily affirmed.² See WIS. STAT. RULE 809.21.

On March 4, 2016, the children (then ages sixteen months and two months) were placed in protective care, and on March 10, they were adjudicated as children in need of protection or services (CHIPS) and placed outside of their parents' home. On October 2, 2019, the Kenosha County Division of Children and Family Services petitioned for termination of J.C.T.'s parental rights, alleging the continuing need for protection or services.

J.C.T. entered a no-contest plea to the continuing need of protection or services allegation for both children. In conjunction with the no-contest plea, the parties entered into a stipulation agreeing to provide J.C.T. with additional time to complete the return conditions. The parties further stipulated that if the CHIPS court returned the children to J.C.T.'s home, the petitions for termination of J.C.T.'s parental rights would be dismissed. The children were not returned to J.C.T.'s home as contemplated by the stipulation, and the matter was scheduled for a "prove up" hearing as to the grounds for termination and disposition.

² The orders also terminated the parental rights of the children's father. Termination of the father's parental rights is not the subject of this appeal.

One day prior to the hearing—and more than six months after she entered her no-contest plea—J.C.T., by new counsel, moved for plea withdrawal, claiming her plea was not knowing, voluntary, and intelligent because the decision to enter her plea was made “hastily and in confusion and without adequate consultation” with her previous counsel. J.C.T. further claimed that if she had adequate time to consult with her attorney, she would not have entered a no-contest plea and she would have insisted on going to trial. After a hearing, the circuit court denied the motion, concluding the record belied J.C.T.’s claims and it appeared J.C.T. merely had a change of heart that did not justify plea withdrawal. The court then heard testimony as to grounds for termination, found that grounds were proven “by clear, convincing and satisfactory evidence,” and further found that J.C.T. was “unfit as to each child.” Following a dispositional hearing, the court concluded it was in the children’s best interest to terminate J.C.T.’s parental rights.

J.C.T. filed a postdisposition motion for plea withdrawal, asserting that the circuit court erroneously applied a postdisposition standard for plea withdrawal, *see State v. Bangert*, 131 Wis. 2d 246, 389 N.W.2d 12 (1986), when assessing her predisposition motion. The circuit court concluded that even if it applied the less-stringent “fair and just reason” standard, *see State v. Jenkins*, 2007 WI 96, 303 Wis. 2d 157, 736 N.W.2d 24, J.C.T. failed to establish grounds for plea withdrawal. This appeal followed.

The no-merit report addresses: (1) whether the circuit court complied with the statutory time limits; (2) whether the court conducted a proper colloquy to establish J.C.T.’s knowing, voluntary, and intelligent waiver of her right to contest the ground for termination; (3) whether the court erred by denying both the pretermination and post-termination motions for plea withdrawal; (4) whether there was sufficient evidence to establish that J.C.T. was unfit to be a

parent; (5) whether the court properly exercised its discretion in concluding that termination of J.C.T.'s parental rights was in the children's best interest; (6) whether J.C.T. was afforded her right to meaningfully participate in the proceedings via "Zoom" videoconference; and (7) whether there are any grounds to challenge the effectiveness of J.C.T.'s trial counsel. Upon reviewing the records, we agree with counsel's description, analysis, and 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 independent review of the record discloses no other potential issues for appeal.

Therefore,

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

IT IS FURTHER ORDERED that Attorney Steven Zaleski is relieved of his obligation to further represent J.C.T. 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