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DISTRICT I

August 2, 2022

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Circuit Court Judge
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Juvenile Clerk
Milwaukee County Courthouse
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You are hereby notified that the Court has entered the following opinion and order:

2022AP692-NM	State of Wisconsin v. A.S. (L.C. # 2020TP206)
2022AP693-NM	State of Wisconsin v. A.S. (L.C. # 2020TP207)

Before Dugan, 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 These appeals are 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. We cite the current version of the statutes for ease of reference. During the times relevant here, there have been no pertinent changes to the cited statutes.

A.S. appeals circuit court orders terminating his parental rights to his children, B.S. and A.S. Attorney Carl W. Chesshir, appointed counsel for A.S., has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. A.S. was served with a copy of the report and advised of his right to file a response but he has not filed a response. Based on our review of the no-merit report and our independent review of the records as required by *Anders v. California*, 386 U.S. 738 (1967), this court concludes there is no issue of arguable merit that could be raised on appeal and summarily affirms the orders.

B.S. was born on October 28, 2016. A.S. was born on September 14, 2017. The children were removed from their parental home on November 5, 2018, and found to be in need of protection and services. On September 22, 2020, the State petitioned to terminate the parental rights of A.S., the children’s father, and K.D., the children’s mother.² On September 24, 2021, A.S. voluntarily consented to the termination of his parental rights. *See* WIS. STAT. § 48.41. The court held a dispositional hearing and determined that the termination of A.S.’s parental rights was in the children’s best interest.

The no-merit report first addresses whether A.S.’s voluntary consent to the termination of his parental rights to his children B.S. and A.S. was informed and voluntary. A parent may consent to the termination of his or her parental rights “only after the judge has explained the effect of termination of parental rights and has questioned the parent ... and is satisfied that the consent is informed and voluntary.” WIS. STAT. § 48.41(2)(a). Before accepting A.S.’s consent to termination, the circuit court conducted an extensive colloquy with A.S. before concluding

² K.D. has also appealed the termination orders.

that A.S.'s consent was informed and voluntary.³ There would be no arguable merit to a claim that A.S. did not voluntarily consent to the termination of his rights.

The no-merit report next addresses whether the circuit court erroneously exercised its discretion during the dispositional phase of proceedings when it concluded that it was in the children's best interest to terminate A.S.'s parental rights. "The ultimate decision whether to terminate parental rights is discretionary." *Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996). After a parent voluntarily consents, the circuit court "may proceed ... to a disposition of the matter after considering the standard and factors specified in s. 48.426." See WIS. STAT. § 48.41(1). The circuit court must give paramount consideration to the best interest of the child. See *Gerald O.*, 203 Wis. 2d at 153-54. The factors enumerated in § 48.426 include:

- (a) The likelihood of the child's adoption after termination.
- (b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.
- (c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.
- (d) The wishes of the child.
- (e) The duration of the separation of the parent from the child.
- (f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking

³ The circuit court also informed A.S. that it would terminate his parental rights only if the court determined that K.D.'s parental rights should also be terminated.

into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

Sec. 48.426(3)(a)-(f).

During the dispositional hearing, the State presented testimony from Jacob Meyer, the child welfare case manager for the family, and from Amber Runnigen, the former child welfare case manager. The record shows that the circuit court considered their testimony in light of each of the statutory factors and made a number of factual findings. The circuit court found that the children were likely to be adopted by their foster parent, which would allow them to enter into a stable and permanent family relationships. It found that the children had no relationship with A.S. or with any family members that would cause them harm if A.S.'s parental rights were terminated. The circuit court also found that the children were healthy and doing well in their foster home and had lived apart from A.S. for most of their lives. The court properly exercised its discretion in concluding that it was in the children's best interest to terminate A.S.'s parental rights. There would be no arguable merit to an appellate challenge the circuit court's disposition.

Finally, the no-merit report addresses whether there would be arguable merit to a claim that A.S. is entitled to relief under WIS. STAT. § 48.46(2), which allows a parent to move the circuit court for relief from an order terminating parental rights on any of the grounds specified in WIS. STAT. RULE 806.07(1)(a), (b), (c), (d), or (f), which include that the order was entered due to mistake, inadvertence, surprise, excusable neglect, newly-discovered evidence, or fraud. Our review of the record reveals no such grounds and appellate counsel states in the no-merit report that he is unaware of any such grounds. There would be no arguable merit to this claim.

This court's review of the record discloses no other arguably meritorious issues for appeal. Therefore,

IT IS ORDERED that the circuit court's orders are summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Carl W. Chesshir is relieved of any further representation of A.S. in these matters.

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

Sheila T. Reiff
Clerk of Court of Appeals