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**DISTRICT I**

August 23, 2022

To:

Hon. Ellen R. Brostrom  
Electronic Notice

William M. Binder  
Electronic Notice

Tammy Kruczynski  
Juvenile Clerk  
Milwaukee County Courthouse  
Electronic Notice

L. C.  
Division of Milwaukee Child Protective  
Services  
Charmian Klyve  
635 North 26th Street  
Milwaukee, WI 53233-1803

Danielle E. Chojnacki  
Electronic Notice

Leonard D. Kachinsky  
Electronic Notice

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

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2022AP827-NM

In re the termination of parental rights to D. H., a person under the age of 18: State of Wisconsin v. L. C. (L.C. # 2020TP281)

Before Dugan, J.<sup>1</sup>

**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).**

L.C., by Attorney Leonard D. Kachinsky, appeals an order terminating her parental rights to D.H. Attorney Kachinsky filed a no-merit report and served L.C. with a copy of that report. See WIS. STAT. RULES 809.107(5m), 809.32. We notified L.C. by mail of her right to respond

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<sup>1</sup> 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.

and that her deadline for doing so was July 11, 2022. L.C. elected not to respond. For the reasons that follow, we conclude now that L.C. has abandoned the appeal. Therefore, the appeal will be dismissed.

By order dated July 15, 2022, we directed Attorney Kachinsky to file a supplemental no-merit report after he considered two identified issues and consulted with L.C. regarding the facts surrounding her no-contest plea at the grounds phase of the termination of parental rights proceedings. We mailed a copy of our July 15, 2022 order to L.C., and it was not returned to us. Attorney Kachinsky subsequently filed a supplemental no-merit report stating that he was unable to consult with L.C. because she did not respond to the messages that he left for her, and then she apparently blocked his calls.

We entered an order on August 5, 2022, explaining to L.C. that she has an obligation to cooperate with her counsel. *See McClelland v. State*, 84 Wis. 2d 145, 152, 267 N.W.2d 843 (1978). We then directed that if L.C. wished to pursue this appeal, she must contact Attorney Kachinsky and consult with him no later than August 15, 2022. We advised her that if she did not take those steps, we would deem this appeal abandoned and dismiss it. We mailed a copy of our August 5, 2022 order to L.C., and it was not returned to us.

Now before the court is a report from Attorney Kachinsky notifying us that L.C. did not contact him by the August 15, 2022 deadline. Further, Attorney Kachinsky advises us that he again attempted to contact L.C. by telephone on August 16, 2022, but “the phone went dead... which indicated that [he] was blocked.”

Because L.C. is not cooperating with Attorney Kachinsky and has instead made herself unavailable to him, he cannot consult with her and provide the information required by this

court. We in turn cannot complete our assessment of the merits of a potential appeal in this matter, as we are required to do in proceedings under WIS. STAT. RULE 809.32 and WIS. STAT. RULE 809.107(5m). We conclude that L.C. has abandoned the appeal. *See State ex rel. Van Hout v. Endicott*, 2006 WI App 196, ¶¶24, 36, 296 Wis. 2d 580, 724 N.W.2d 692 (stating that “[a] defendant cannot remain mute in the face of a request from counsel for direction or when his or her rights to appeal and to counsel are at stake,” and holding that “a defendant, by actions designed to obfuscate and frustrate the judicial review process, can give up” the right to appeal); *see also State v. John*, 60 Wis. 2d 730, 735-36, 211 N.W.2d 463 (1973)(stating that, in circumstances where a litigant is a fugitive and thereby “puts [her]self in a position where [s]he cannot aid the court which needs [her] testimony in the determination of [her] petition, [s]he has frustrated the administration of justice, made it impossible for the court to consider [her] petition, and has abandoned [her] application for relief on the merits”). Further proceedings in this court are unwarranted and would violate the legislature’s directive to expedite and achieve finality in termination of parental rights proceedings.<sup>2</sup> *See Rhonda R.D. v. Franklin R.D.*, 191 Wis. 2d 680, 698-99, 530 N.W.2d 34 (Ct. App. 1995) (explaining that an expedited appeals process in termination of parental rights matters is desirable to permit adoption or other placement).

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<sup>2</sup> Cases appealed under WIS. STAT. RULE 809.107 “shall be given preference and shall be taken in an order that ensures that a decision is issued within 30 days after the filing of the appellant’s reply or a statement that a reply brief will not be filed.” RULE 809.107(6)(e). Assuming without so holding that RULE 809.107(6)(e) contemplated a decision within thirty days of L.C.’s July 11, 2022 deadline for responding to the no-merit report, L.C.’s refusal to cooperate with appellate counsel prevented us from meeting that deadline. On our own motion, we now extend our deadline through the date of this opinion and order. *See* WIS. STAT. RULE 809.82(2)(a).

Accordingly,

IT IS ORDERED that the appeal is dismissed.

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*