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**DISTRICT II**

October 12, 2022

To:

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V.V.-G.

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

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2022AP379-NM	Waukesha County DH&HS v. V.V.-G. (L.C. #2020TP8)
2022AP380-NM	Waukesha County DH&HS v. V.V.-G. (L.C. #2020TP9)

Before Gundrum, P.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).**

In these consolidated appeals, V.V.-G. appeals from circuit court orders terminating his parental rights to S.J.V. and I.J.V. (the children). V.V.-G.'s appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULE 809.107(5m) (2019-20). V.V.-G. received a copy of the report, had the report read to him in Spanish as he requested, and has not filed a response

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<sup>1</sup> These consolidated appeals are decided by one judge pursuant to WIS. STAT. § 752.31(2)(e). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

to it. Upon consideration of the report and an independent review of the record, we summarily affirm the orders because there are no issues that would have arguable merit for appeal. WIS. STAT. RULE 809.21.<sup>2</sup>

V.V.-G. had a jury trial on Waukesha County's petition to terminate his parental rights. The jury considered two grounds and found that Waukesha County established that the children were in continuing need of protection or services pursuant to WIS. STAT. § 48.415(2) and V.V.-G. failed to assume parental responsibility pursuant to § 48.415(6). Thereafter, the circuit court terminated V.V.-G.'s parental rights after a dispositional hearing.

The no-merit report<sup>3</sup> addresses: (1) the sufficiency of the evidence of the grounds to terminate V.V.-G.'s parental rights and whether the circuit court should have rejected the jury's verdicts due to insufficient evidence; (2) whether the circuit court misused its discretion when it declined to change venue to Milwaukee County; (3) whether the circuit court's instruction to the jury that the court alone would determine what is in the children's best interests sufficiently addressed the guardian ad litem's declaration before the jury that he represents the best interests of the children; and (4) whether the circuit court properly exercised its discretion in determining that it was in the children's best interests to terminate V.V.-G.'s parental rights. We agree with appellate counsel that these issues do not have arguable merit for appeal. Furthermore, our

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<sup>2</sup> Due to the size of the record in these consolidated appeals and the need to obtain a Spanish-language translation of this opinion for V.V.-G. before the opinion's release, we extend the time to decide these appeals to the date of this opinion. WIS. STAT. RULES 809.107(6)(e) and 809.82(2).

<sup>3</sup> We observe that the no-merit report does not discuss the grounds phase jury trial testimony of either V.V.-G. or the children's mother or any of the testimony taken at the dispositional hearing. As stated above, the court has reviewed the entire record in these appeals.

independent review of the record including, without limitation, the circuit court's evidentiary rulings, voir dire, and the jury instructions discloses no issues with arguable merit for appeal.

The record supports the circuit court's discretionary decision to deny the motion to change venue to Milwaukee County. The record also supports the circuit court's decision to give the jury a cautionary instruction that the circuit court, not the jury, decides the children's best interests. Jurors are presumed to follow jury instructions. See *State v. Grande*, 169 Wis. 2d 422, 436, 485 N.W.2d 282 (Ct. App. 1992).

We conclude that the evidence supports the jury's determination that there were grounds to terminate V.V.-G.'s parental rights. "When reviewing a jury's verdict, we consider the evidence in the light most favorable to the verdict." *Tammy W-G. v. Jacob T.*, 2011 WI 30, ¶39, 333 Wis. 2d. 273, 797 N.W.2d 854. The credibility of the witnesses and the weight to be afforded to their testimony was for the jury to determine. *State v. Wilson*, 149 Wis. 2d 878, 894, 440 N.W.2d 534 (1989).

At trial, evidence was taken from child welfare, health care and family support professionals, a psychologist, V.V.-G. and the children's mother, the foster parent, individuals familiar with the family and its circumstances, and law enforcement officers who had interactions with the family. The jury found that the children were in need of protection or services and had been placed outside of V.V.-G.'s home for six months or longer pursuant to

court orders that contained termination of parental rights notices,<sup>4</sup> the County made reasonable efforts to provide court-ordered services, and V.V.-G. failed to meet the conditions for the children's return. The jury also found that V.V.-G. failed to assume parental responsibility for the children. The jury's findings are supported in the trial record. The County met its burden to show grounds for termination by clear and convincing evidence. *Evelyn C.R. v. Tykila S.*, 2001 WI 110, ¶22, 246 Wis. 2d 1, 629 N.W.2d 768. We conclude that no arguable merit could arise from a challenge to the sufficiency of the evidence of the grounds to terminate V.V.-G.'s parental rights, and the circuit court did not err when it declined to set the jury's verdict aside.

The decision to terminate parental rights is within the circuit court's discretion. *State v. Margaret H.*, 2000 WI 42, ¶27, 234 Wis. 2d. 606, 610 N.W.2d 475. The circuit court must consider the WIS. STAT. § 48.426(3) statutory factors to determine if termination is in the children's best interests. The record in this case indicates that after taking testimony from the parents, a social worker, two therapists, an educational professional, and persons familiar with the family, the court considered the following appropriate factors: the likelihood of the children's adoption after termination, the children's age and health, the children's substantial family relationships, and whether it would be harmful to sever those relationships, the duration of the parent-child separation, and future stability for the children as a result of the termination. The court's findings in support of termination were not clearly erroneous. WIS. STAT.

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<sup>4</sup> There would be no arguable merit to a challenge based upon the fact that V.V.-G. was given the termination of parental rights warnings pursuant to the statute in effect at the time the November 16, 2017 CHIPS dispositional orders were entered, WIS. STAT. § 48.415(2)(a)3. (2017-18), while the termination of parental rights proceedings occurred under the April 2018 amended version of the statute, WIS. STAT. § 48.415(2)(a)3. (2019-20). See *Eau Claire County Dept. of Human Servs. v. S.E.*, 2021 WI 56, ¶¶19, 39-40, 397 Wis. 2d 462, 960 N.W.2d 391 (proof of likelihood of meeting conditions of return no longer required under amended statute).

§ 805.17(2). The court's discretionary determination that it was in the children's best interests to terminate V.V.-G.'s parental rights is supported in the record. We agree with counsel's conclusion that an appellate challenge to the circuit court's decision to terminate V.V.-G.'s parental rights would lack arguable merit.

We have considered whether there would be any arguable merit to a claim that the circuit court failed to comply with mandatory WIS. STAT. ch. 48 time limits, thereby losing competency to proceed. *State v. April O.*, 2000 WI App 70, ¶5, 233 Wis. 2d 663, 607 N.W.2d 927. Continuances are permitted “upon a showing of good cause in open court ... and only for so long as is necessary[.]” WIS. STAT. § 48.315(2). The record shows that the circuit court found good cause to toll the time limits. There would be no arguable merit to a challenge to the circuit court's competency to proceed based on a failure to comply with statutory time limits.

Because we conclude that there is no arguable merit to any issue that could be raised on appeal, we accept the no-merit report, affirm the orders terminating V.V.-G.'s parental rights, and relieve Attorney Jill Vento of further representation of V.V.-G. in these matters.

Upon the foregoing reasons,

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Jill Vento is relieved of further representation of V.V.-G. in these matters.

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*