



OFFICE OF THE CLERK
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 IV

March 30, 2023

To:

Hon. Patricia Baker
Circuit Court Judge
Electronic Notice

Chris Marfilus
Juvenile Clerk
Portage County Courthouse
Electronic Notice

Gregory Bates
Electronic Notice

Tiffany Rose Wunderlin
Electronic Notice

Michael R. Blum
Electronic Notice

R. W. 357066

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

2022AP2198-NM Portage County DH&HS v. R.W. (L.C. # 2021TP12)

Before Blanchard, P.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).

R.W. appeals from an order terminating his parental rights to his child, R.L. R.W.'s appellate counsel filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. The no-merit report addresses whether the circuit court complied with the statutory time limits, whether R.W.'s consent to termination of his parental rights was knowing and voluntary, and whether the circuit court properly exercised its discretion in determining that termination was in

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e) (2021-22). All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

the best interest of R.L. R.W. received a copy of the report, was advised of his right to file a response, and has not done so. After reviewing the record and counsel's report, this court concludes that there are no issues with arguable merit for appeal. The circuit court order is summarily affirmed. WIS. STAT. RULE 809.21.

In November 2021, the corporation counsel for Portage County, representing the Portage County Health and Human Services Department, petitioned to terminate R.W.'s parental rights, alleging that he had failed to assume parental responsibility and that R.L. was a child in continuing need of protection or services. Ultimately, R.W. voluntarily consented to the termination. After a dispositional hearing, the court terminated R.W.'s parental rights. This no-merit appeal follows.

The no-merit report discusses whether R.W. could argue on appeal that the circuit court failed to comply with the statutory time limits under WIS. STAT. ch. 48. The record reflects that all of the mandatory time limits were either complied with or properly extended for good cause, without objection, to accommodate the parties' schedules. "Failure to object to a period of delay ... waives any challenge to the court's competency to act during the period of delay." WIS. STAT. § 48.315(3). Any challenge to the circuit court proceedings based upon a failure to comply with the statutory time limits would be without arguable merit on appeal.

The no-merit report also discusses whether R.W. knowingly and voluntarily entered his consent to the termination of his parental rights to R.L. When a parent elects to voluntarily consent to the termination of parental rights, WIS. STAT. § 48.41(2)(a) directs that the court may accept the consent to termination "only after the judge has explained the effect of termination of parental rights and has questioned the parent, or has permitted an attorney who represents any of

the parties to question the parent, and is satisfied that the consent is informed and voluntary.” The record reflects that R.W. was placed under oath, and that his counsel engaged him in a colloquy on the record. R.W. testified that he was 40 years old, had completed 12 years of schooling, could read and write English, and had not consumed any alcohol or drugs in the prior 24 hours. Defense counsel ascertained that R.W. was thinking clearly, understood the nature of the proceeding taking place, and understood that the termination of his parental rights would permanently sever his relationship with R.L. R.W. confirmed on the record that he understood the rights he was giving up, that he understood the alternatives to voluntary consent, and that he had consulted with his attorney. R.W. also confirmed that no threats or promises had been made regarding the voluntary termination of his parental rights. In addition, a written voluntary consent questionnaire was signed by R.W. and filed with the court. R.W. testified that he had reviewed the questionnaire on two occasions with his attorney, and that he understood the contents of the document. Having conducted an independent review of the record, this court agrees with counsel’s conclusion in the no-merit report that there are no arguably meritorious grounds upon which to challenge the knowing and voluntary nature of R.W.’s consent to termination of his parental rights to R.L.

There is also no arguable merit to a claim that the circuit court erroneously exercised its discretion in terminating R.W.’s parental rights. *See Sheboygan Cnty. DHHS v. Julie A.B.*, 2002 WI 95, ¶¶28, 42, 255 Wis. 2d 170, 648 N.W.2d 402 (whether the evidence warrants termination is a matter within the discretion of the court). The record of the disposition hearing reflects that the court correctly applied the best interests of the child standard to the facts of the case, *see* WIS. STAT. § 48.426(2), and considered each of the factors set forth in § 48.426(3). The circuit court’s discretionary decision to terminate R.W.’s parental rights demonstrates a rational

process based on relevant facts and applying proper standards of law. *See Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996).

Our independent review of the record does not disclose any other potentially meritorious issue for appeal.

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

IT IS FURTHER ORDERED that Attorney Gregory Bates is relieved of further representation of R.W. 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