



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 III

May 16, 2023

To:

Hon. Daniel J. Tolan
Circuit Court Judge
Electronic Notice

Jacqueline Baasch
Clerk of Circuit Court
Burnett County Courthouse
Electronic Notice

Andrew Joseph Harrington
Electronic Notice

Steven Zaleski
Electronic Notice

M. L. B. 314805
Green Bay Correctional Inst.
P.O. Box 19033
Green Bay, WI 54307-9033

Mollie Grande Benson
2057 Juliet Avenue
Saint Paul, MN 55105-1725

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

2023AP413-NM

Burnett County Department of Human Services v. M. L. B.
(L. C. No. 2021TP5)

Before Gill, 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).

Counsel for Michael² has filed a no-merit report pursuant to WIS. STAT. RULE 809.32 concluding that there is no arguable basis to challenge an order terminating Michael's parental rights to his daughter, Lily. Michael was advised of his right to respond to the no-merit report,

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

² For ease of reading, we refer to M.L.B. and his daughter by pseudonyms, rather than their initials.

but he has not responded. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), we conclude that there is no arguable merit to any issue that could be raised on appeal. Therefore, we summarily affirm the order terminating Michael's parental rights. *See* WIS. STAT. RULE 809.21.

Lily was removed from her mother's home in March 2017, when she was eight years old. Michael was incarcerated at the time of Lily's removal. In April 2017, Lily was found to be a child in need of protection or services (CHIPS), and a CHIPS dispositional order was entered. The dispositional order set forth conditions that both parents were required to meet before Lily would be returned to their care. The order also notified the parents of the potentially applicable grounds for the termination of their parental rights.

In May 2021, the Burnett County Department of Human Services filed a petition to terminate Michael's parental rights to Lily.³ As grounds for termination, the petition alleged abandonment, continuing CHIPS, and failure to assume parental responsibility. *See* WIS. STAT. § 48.415(1), (2), (6). Michael waived his right to a jury trial during the grounds phase of the termination proceedings. Following a bench trial, the circuit court found that the County had proved each of its three alleged grounds for termination.

Thereafter, at the beginning of the dispositional hearing, Michael's attorney informed the circuit court that Michael would voluntarily consent to the termination of his parental rights. Michael was then questioned under oath by the court and counsel regarding his decision to

³ The petition also sought to terminate Lily's mother's parental rights. The circuit court ultimately entered an order terminating the mother's parental rights. That termination is not before us in this appeal.

consent to termination. Following that questioning, the court made a finding that Michael had freely, knowingly, and voluntarily consented to the termination of his parental rights. After hearing testimony from the social worker assigned to Lily's case, the court found that the termination of Michael's parental rights would be in Lily's best interest. The court subsequently entered a written order terminating Michael's parental rights to Lily.

The no-merit report addresses whether any issues of arguable merit exist regarding: (1) the circuit court's failure to adhere to statutory deadlines; (2) the court's determination that the Indian Child Welfare Act did not apply to this case; (3) Michael's waiver of his right to a jury trial during the grounds phase of the case; (4) Michael's voluntary consent to the termination of his parental rights; (5) the court's conclusion that termination of Michael's parental rights would be in Lily's best interest; and (6) Michael's trial attorney's performance. We agree with counsel's description, analysis, and conclusion that these potential issues lack arguable merit, and we therefore do not address them further.

Our independent review of the record discloses no other potential issues for appeal.

Therefore,

IT IS ORDERED that the order is affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that Attorney Steven Zaleski is relieved of any further representation of M.L.B. 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