



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
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT I/III

January 15, 2013

To:

Hon. Christopher R. Foley
Circuit Court Judge, Branch 18
Children's Court Center
10201 Watertown Plank Rd.
Milwaukee, WI 53226

Claire Starling
Assistant District Attorney
Milwaukee County District Attorney's Office
10201 Watertown Plank Road
Wauwatosa, WI 53226

Hon. Pedro Colon
Circuit Court Judge, Branch 14
Children's Court Center
10201 Watertown Plank Rd.
Milwaukee, WI 53226

Bureau of Milwaukee Child Welfare
Arlene Happach
1555 N River Center Drive #220
Milwaukee, WI 53212

Shaless D.

Dan Barlich, Juvenile Clerk
Children's Court Center
10201 Watertown Plank Rd.
Milwaukee, WI 53226

Isa Gonzalez-Zayas
Legal Aid Society of Milwaukee Inc
Childrens Court Center
10201 W Watertown Plank Rd
Wauwatosa, WI 53226-3532

Paul G. Bonneson
Law Offices of Paul G. Bonneson
631 N. Mayfair Rd.
Milwaukee, WI 53226

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

2012AP1511-NM	In re the termination of parental rights to Shaniya D., a person under the age of 18: State of Wisconsin v. Shaless D. (L.C. # 2011TP5)
2012AP1512-NM	In re the termination of parental rights to Noah S., a person under the age of 18: State of Wisconsin v. Shaless D. (L.C. # 2011TP6)

Before Mangerson, J.¹

Counsel for Shaless D. has filed a no-merit report concluding there is no arguable basis for Shaless to challenge orders terminating her parental rights to her son and daughter. Shaless

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

was advised of her right to respond to the report and has not responded. Upon this court's independent review of the record, no issue of arguable merit appears.

The petitions alleged that Shaless failed to assume parental responsibility and that her children were in continuing need of protection and services (CHIPS). After several delays and rescheduled hearings, Shaless stipulated to the ground of continuing CHIPS. Following a dispositional hearing, the court terminated her parental rights to both children.

The no-merit report addresses whether the circuit court lost competency to proceed because the court failed to meet the deadline for the fact-finding hearing within forty-five days of the initial hearing and failed to state its reasons on the record for the continuance. However, failure to comply with the time limits does not cause the circuit court to lose jurisdiction or competency to proceed. *See* WIS. STAT. § 48.315(3).

The no-merit report also addresses whether Shaless knowingly, voluntarily and intelligently stipulated to the continuing CHIPS ground. As required by § 48.422(7), the court personally addressed Shaless and determined that the admission was voluntarily and understandingly made. The court determined that Shaless had been educated through the twelfth grade and had some college education. She had not taken any drugs or alcohol in the preceding twenty-four hours. Shaless testified that no one had threatened her or made any promises to induce the stipulation.

The court also explained the two part process for terminating parental rights, and that Shaless had the right to a jury trial on the continuing CHIPS issue. The court explained the State's burden of proof, the elements of continuing CHIPS and that, if the court accepted the stipulation to grounds, it was required to find Shaless unfit. The court explained that Shaless

would still have the right to contest termination of her parental rights at the dispositional hearing at which the children's best interest would be determined.

To establish a factual basis for the plea, the court took testimony from the case worker for the Children's Service Society regarding Shaless' failure to meet numerous conditions for the return of the children after they were placed outside her home. Shaless failed to cooperate with the case workers, failed to maintain a suitable home, failed to consistently visit the children, failed to participate in individual therapy and home management and failed to attend appointments, meetings and court appearances. Shaless failed to meet these conditions even though the CHIPS orders warned her that failure to comply with the requirements for the return of the children would result in termination of her parental rights. Finally, the court determined that adoptive resources were available for the children. On the basis of these finding, the record discloses no arguable basis for Shaless to challenge her admission that the children were in continuing need of protection and services.

The record also discloses no basis for challenging the circuit court's exercise of discretion when it determined that the best interest of the children required termination of Shaless' parental rights. The court properly exercises its discretion when it examines the relevant facts, applies a proper standard of law and, using a demonstrated rational process, reaches a conclusion that a reasonable judge could reach. *Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855, (Ct. App. 1996). WISCONSIN STAT. § 48.426(3) identifies six factors that relate to the best interests of the children. The court considered those factors and found that there were adoptive resources for the two children in their foster home, nothing about the childrens' age or health would reduce the likelihood of adoption, and the children considered their foster mother their primary parent figure. Although it was not clear what the children's

wishes were regarding adoption and Shaless had some relationship with her children, the court found that the less extreme suggestion of a temporary guardianship until Shaless “gets herself together” was not feasible because Shaless would not respect and support the foster mother’s guardianship authority. The court concluded that a guardianship was not appropriate as it would not achieve any actual level or sense of permanence for the children.

Because the children had been placed outside the home for thirty-four months, and Shaless’ ability to act as a parent was diminished at the time of the dispositional hearing based on her recent arrest for involvement in an illicit drug operation, and because Shaless was engaged to a man with an extensive criminal and domestic violence history, the court reasonably concluded that permanent placement with the foster mother was the children’s only path to permanence and stability in a safe family environment.

This court’s independent review of the record discloses no other potential issue for appeal. Therefore,

IT IS ORDERED that the orders are summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that attorney Paul Bonneson is relieved of his obligation to further represent Shaless in these matters. WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals