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**DISTRICT I/III**

January 31, 2013

To:

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

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2012AP2492-NM

In re the termination of parental rights to Angeluis G., a person under the age of 18: State of Wisconsin v. Crystal B. (L.C. # 2010TP318)

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

Counsel for Crystal B. has filed a no-merit report pursuant to WIS. STAT. RULE 809.32, concluding there is no arguable merit to any issue that could be raised on appeal from an order

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

terminating Crystal's parental rights to her son, Angeluis G.<sup>2</sup> Crystal was informed of her right to file a response to the report and has not responded. Upon this court's independent review of the record as mandated by *Anders v. California*, 386 U.S. 738 (1967), no issues of arguable merit appear. Therefore, the order terminating Crystal's parental rights is summarily affirmed. *See* WIS. STAT. RULE 809.21.

Angeluis was born April 14, 2009, removed from Crystal's care six days later and placed in a foster home. Angeluis was removed because of serious problems with the care of Crystal's older children and concern about the living conditions she could provide for the infant.<sup>3</sup> In September 2009, the Bureau of Milwaukee Child Welfare granted Crystal's request to place Angeluis in her sister's Monroe County home. Although the Bureau gave Crystal permission to live in her sister's home with Angeluis, she returned to Milwaukee after less than a month. Aside from the few weeks Crystal lived with her sister, Angeluis has been cared for by others.

On October 14, 2009, Angeluis was found to be a child in need of protection or services and remained placed with Crystal's sister. Crystal failed to meet the conditions necessary to have Angeluis returned to her care and had only sporadic contact with him. On October 26, 2010, the State petitioned for termination of Crystal's parental rights, alleging the continuing need for protection or services, and a failure to assume parental responsibility. Crystal ultimately pleaded no contest to the allegation that she had failed to assume parental responsibility, and the

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<sup>2</sup> The order also terminated the parental rights of Angeluis's father. Termination of the father's parental rights is not the subject of this appeal.

<sup>3</sup> A live-in boyfriend was convicted of second-degree reckless homicide for the suffocation death of Crystal's nineteen-month-old daughter. Crystal's parental rights to her son, Damien B., were terminated in October 2009.

State dismissed the allegation that Angeluis was in continuing need of protection or services. After a dispositional hearing, the court terminated Crystal's parental rights.

Any challenge to the proceedings based on a failure to comply with statutory time limits lacks arguable merit. WISCONSIN STAT. § 48.422(1) requires that the initial hearing on the petition be held within thirty days after the petition's filing. Here, the initial hearing on the petition was held on November 24, 2010. Because Crystal appeared pro se, the court adjourned the matter so that Crystal could obtain counsel. Crystal appeared with counsel at the rescheduled initial hearing on February 21, 2011, and contested the petition. Based on scheduling conflicts, the fact-finding hearing was ultimately scheduled for May 23, 2011. Although this was beyond the forty-five-day time limit imposed under § 48.422(2), Crystal did not object to the delay and has therefore waived any challenge to the court's competency on these grounds. *See* WIS. STAT. § 48.315(3). Moreover, scheduling difficulties constitute good cause for tolling time limits. *See State v. Quinsanna D.*, 2002 WI App 318, ¶39, 259 Wis. 2d 429, 655 N.W.2d 752.

On May 23, the date scheduled for the fact-finding hearing, Crystal entered her no contest plea. Based on scheduling difficulties, the dispositional hearing started on October 10, 2011, and continued through proceedings on December 21, 2011, March 3, 2012 and March 30, 2012, before ending on May 15, 2012. Although this was beyond the forty-five-day time limit imposed by WIS. STAT. § 48.424(4), Crystal did not object to the delay and the parties' scheduling difficulties provided good cause for tolling time limits. *See Quinsanna D.*, 259 Wis. 2d 429, ¶39. After the dispositional hearing, the court tolled the time limits for making the final dispositional decision because there was uncertainty whether the termination should be followed

by adoption, a guardianship or sustaining care.<sup>4</sup> In a dispositional order entered July 5, 2012, the court transferred Angeluis's guardianship and custody to the Bureau pending his adoption. Because any delays were supported by good cause and acquiesced to by Crystal, there is no arguable merit to challenge the proceedings based on noncompliance with the statutory time limits. *See* WIS. STAT. § 48.315(3) (failure to object to continuance waives any challenge to the court's competency to act during continuance).

Any challenge to Crystal's no contest plea would lack arguable merit. Before accepting Crystal's plea, the court engaged her in a colloquy and confirmed her understanding of the rights she waived by entering a no contest plea. The court further ascertained that Crystal's admission was both voluntary and knowing, and no promises or threats were made to elicit an admission to the facts. The court also confirmed that any medication Crystal was currently taking did not interfere with her ability to understand the proceedings. *See* WIS. STAT. § 48.422(7).

The court informed Crystal that acceptance of her plea would result in a finding of parental unfitness, and that during the dispositional stage of the proceedings, the court would hear evidence and then either terminate her rights or dismiss the petition if the evidence did not warrant termination. *See Oneida Cnty. DSS v. Therese S.*, 2008 WI App 159, ¶¶10, 16, 314 Wis. 2d 493, 762 N.W.2d 122. Further, the court informed Crystal that the best interests of the child would be the prevailing factor considered by the court in determining the disposition. *See*

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<sup>4</sup> By the completion of the dispositional hearing, Crystal's sister, Heidi B., and her husband, Gary B., had divorced. Gary, however, had sole custody and primary placement of the couple's two biological children. The State, the GAL and Gary wanted Angeluis to remain in Gary's care, but he was still in the process of being "licensed" as an adoptive parent.

*id.*, ¶16. Based on Crystal's testimony, the court found a factual basis existed for the plea. Therefore, there is no arguable merit to a challenge to Crystal's plea.

Finally, there is no arguable merit to a claim that the circuit court erroneously exercised its discretion when it terminated Crystal's parental rights. The court correctly applied the best interests of the child standard and considered the factors set out in WIS. STAT. § 48.426(3). The court concluded that it was in the child's best interest to terminate Crystal's parental rights after considering the child's adoptability and age, the absence of any substantial relationship with Crystal and his need for a stable and permanent family relationship. The court's discretionary decision to terminate Crystal's parental rights demonstrates a rational process that is justified by the record. *See Gerald O. v. Cindy R.*, 203 Wis. 2d 148, 152, 551 N.W.2d 855 (Ct. App. 1996).

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

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

IT IS FURTHER ORDERED that attorney Randall E. Paulson is relieved of further representing Crystal B. in this matter. WIS. STAT. RULE 809.32(3).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*