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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  
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**DISTRICT I/II**

May 29, 2013

To:

Hon. John J. DiMotto  
Circuit Court Judge  
Milwaukee County Courthouse  
10201 W. Watertown Plank Rd.  
Milwaukee, WI 53226

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

Andrea Taylor Cornwall  
Assistant State Public Defender  
735 N. Water St., Ste. 912  
Milwaukee, WI 53202

Michelle Ackerman Havas  
Asst. District Attorney  
10201 W. Watertown Plank Rd.  
Milwaukee, WI 53226

Thomas K. Voss  
Thomas K. Voss Attorney at Law, S.C.  
241 Wisconsin Ave.  
Waukesha, WI 53186-4926

Doris B.

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

Danuta Kurczewski  
Legal Aid Society of Milwaukee  
Milwaukee County Children's Center  
10201 Watertown Plank Rd.  
Milwaukee, WI 53226

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

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2013AP827-NM	In re the termination of parental rights to Emanuel C., a person under the age of 18: State of Wisconsin v. Doris B., Emmanuel C. (L.C. #2011TP188)
2013AP828-NM	In re the termination of parental rights to Ermoney S., a person under the age of 18: State of Wisconsin v. Doris B., Emmanuel C. (L.C. #2011TP189)

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

Doris B. appeals from orders terminating her parental rights to her two sons. Her appellate counsel has filed a no-merit report pursuant to WIS. STAT. RULES 809.107(5m) and 809.32. Doris was served with a copy of the report and advised of her right to file a response. No response has been received from Doris. Based upon an independent review of the no-merit report and circuit court records, this court concludes that no issue of arguable merit could be raised on appeal and affirms the orders.

Doris's two sons were taken into care by the Bureau of Milwaukee Child Welfare in July 2010.<sup>2</sup> From July 2010 until mid-June 2011, Doris was "on the run" avoiding possible incarceration on drug charges and she had no contact with her sons during that period. The petitions for termination of parental rights were filed June 14, 2011, and Doris was served while in custody at the Winnebago County jail on a probation hold. Doris stipulated to the abandonment ground alleged in the termination petitions. *See* WIS. STAT. § 48.415(1)(a)2. (abandonment exists when a parent has no contact for three months while the children are placed outside the parent's home). The disposition hearing was continued on three different dates and

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

<sup>2</sup> One son was two years old at the time. The other was eleven months old. Doris's newborn daughter was also taken into care at that time. The termination petition as to that child was discontinued.

finished after Doris had been given an opportunity for supervised visits with her sons.<sup>3</sup> The court determined that the termination of Doris's parental rights was in the children's best interests.

After the filing of a petition for termination of parental rights and the completion of preliminary matters, a contested termination proceeding involves a two-step procedure. *Sheboygan Cnty. DHHS v. Julie A.B.*, 2002 WI 95, ¶24, 255 Wis. 2d 170, 648 N.W.2d 402. The first step is a fact-finding hearing which determines whether grounds exist to terminate the parent's rights. *Id.* If grounds for termination are found to exist, the circuit court must find that the parent is unfit. *Id.*, ¶26. Here Doris stipulated that grounds for termination existed. The second phase is the dispositional phase. *Id.*, ¶28. The court must determine whether the parent's rights should be terminated. *Id.* The best interest of the child is the prevailing factor considered by the circuit court in making this decision. WIS. STAT. § 48.426(2). In determining the best interests of the children, the circuit court is required to consider the agency report and the factors enumerated in § 48.426(3). *Julie A.B.*, 255 Wis. 2d 170, ¶4. It is also entitled to consider other factors, including factors favorable to the parent. *Id.*

Counsel's no-merit report addresses as potential appellate issues whether the circuit court met its obligations under WIS. STAT. § 48.422(7) in accepting Doris's stipulation to the abandonment ground, whether Doris's stipulation was knowingly and voluntarily made, and

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<sup>3</sup> We note that time limits set forth in WIS. STAT. ch. 48 for termination proceedings were not met. However, continuances "upon a showing of good cause in open court" are allowed. WIS. STAT. § 48.315(2). Failure to object to a continuance waives any challenge to the court's competency to act during the continuance. Sec. 48.315(3). Each time a hearing was continued or set beyond the statutory time limit, the circuit court found cause to extend the time limit and no objection was made. There is no arguable merit to any claim related to the failure to comply with the statutory time limits.

whether the dispositional decision was an erroneous exercise of discretion or otherwise failed to consider the best interests of the children. Our review of the record confirms counsel's conclusion that these potential issues lack arguable merit. The no-merit report sets forth an adequate discussion of the potential issues to support the no-merit conclusion and we need not address them further.

Our review of the records discloses no other potential issues for appeal.<sup>4</sup> Accordingly, we accept the no-merit report, affirm the orders terminating Doris's parental rights, and discharge appellate counsel of the obligation to represent Doris further in these appeals.

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 Thomas Voss is relieved of any further representation of Doris B. in these matters. *See* WIS. STAT. RULE 809.32(3).

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

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<sup>4</sup> During the dispositional phase of the case, the circuit court denied Doris's motion to adjourn the disposition hearing to give her an opportunity to stabilize her life and make progress on the conditions of return of the children. The circuit court properly exercised its discretion in denying the motion.