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June 4, 2013

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

2013AP719-NM

In re the termination of parental rights to Carter M., a person under the age of 18: Marinette County v. Shannondooa H.
(L.C. # 2012TP5)

Before Kloppenburg, J.¹

Shannondooa H. appeals an order terminating her parental rights to Carter M. Attorney Donna Hintze has filed a no-merit report seeking to withdraw as appellate counsel. *See* WIS. STAT. RULE 809.32 and *Anders v. California*, 386 U.S. 738, 744 (1967). The no-merit report addresses whether there was sufficient evidence at trial to support the jury finding that there were

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

grounds to terminate Shannondooa's parental rights, as well as whether the circuit court properly exercised its discretion in determining that termination of Shannondooa's parental rights was in Carter's best interests. Shannondooa was sent a copy of the report, but has not filed a response. Upon our independent review of the entire record, as well as the no-merit report, we agree with counsel's assessment that there are no arguably meritorious appellate issues.

On May 15, 2012, the State petitioned to terminate Shannondooa's parental rights to Carter on grounds that Carter was in continuing need of services under an order adjudging Carter a child in need of protection or services (CHIPS). *See* WIS. STAT. § 48.415(2). Shannondooa contested the petition and requested a jury trial. The jury returned a special verdict finding the statutory criteria for grounds to terminate Shannondooa's parental rights based on continuing CHIPS. The circuit court then found that termination of Shannondooa's parental rights was in Carter's best interests.

The no-merit report addresses whether there would be arguable merit to a claim that there was insufficient evidence to support the jury's finding of grounds for termination. We agree with counsel's assessment that an argument that the evidence was insufficient to support the jury's findings would lack arguable merit.

Grounds for termination must be established by clear and convincing evidence. *See* WIS. STAT. §§ 48.424 and 48.31(1). A jury's determination that grounds exist for termination will be upheld so long as there is any credible evidence to support that determination. *See State v. Quisanna D.*, 2002 WI App 318, ¶30, 259 Wis. 2d 429, 655 N.W.2d 752.

Here, the jury returned a special verdict as to whether grounds existed to terminate Shannondooa's parental rights based on Carter being in continuing need of protection or

services. The first question—whether Carter had been adjudged to be in need of protection or services and placed outside the home for a cumulative period of six months or longer pursuant to one or more court orders containing the termination of parental rights notice required by law—was answered affirmatively by the circuit court on undisputed evidence. The jury also found that: (1) the Marinette County Department of Social Services had made a reasonable effort to provide the services ordered by the court; (2) Shannondooa had failed to meet the conditions for Carter’s safe return to her home; and (3) there was a substantial likelihood that Shannondooa would not meet the conditions of return within the nine-month period following the hearing. *See* WIS. STAT. § 48.415(2).

There was credible evidence presented at trial to support each of the jury’s findings. Significantly, Shannondooa’s ongoing case manager with the Marinette County Department of Health and Human Services testified that the department had provided numerous services to Shannondooa to allow her to meet each of the conditions of return, but that Shannondooa had failed to meet those conditions. We agree with counsel’s assessment that based on this testimony and other consistent evidence, it was reasonable for the jury to conclude that Shannondooa had too many difficulties to overcome to be able to meet the conditions of return in the nine months following the hearing. Because the record contains sufficient evidence to support the jury’s affirmative answer to each of the questions on the special verdict, we agree that a challenge to the sufficiency of the evidence would lack arguable merit.

Next, the no-merit report addresses whether the circuit court properly exercised its discretion in determining that termination of Shannondooa’s parental rights was in Carter’s best interests. *See* WIS. STAT. § 48.426. The evidence at the dispositional hearing established that Carter was thriving at his current placement; that he was likely to be adopted if Shannondooa’s

parental rights were terminated; that Shannondooa and Carter did have a relationship, but that it was not a parental relationship and it would not be harmful to Carter to sever that relationship; and that no other member of Shannondooa's family had a substantial relationship with Carter. The court reviewed the evidence and the statutory criteria for disposition and determined that it was in Carter's best interests to terminate Shannondooa's parental rights. *See* WIS. STAT. § 48.426. We agree with counsel's assessment that an argument that the circuit court erroneously exercised its decision in determining that termination of Shannondooa's parental rights was in Carter's best interests would lack arguable merit.

Upon our independent review of the record, we have found no other arguable basis for reversing the order terminating Shannondooa's parental rights. We conclude that any further appellate proceedings would be wholly frivolous.

Upon the foregoing,

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

IT IS FURTHER ORDERED that Attorney Donna Hintze is relieved of any further representation of Shannondooa H. in this matter. *See* WIS. STAT. RULE 809.32(3).

Diane M. Fremgen
Clerk of Court of Appeals