

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT X
Case No. XXXXAPXXX NM

*In re the termination of parental rights to Jackie S.,
a person under the age of 18:*

Bay County Human Services Department,
Petitioner-Respondent,

v.

Jane S.,
Respondent-Appellant,
John S.,
Respondent.

On No Merit Notice of Appeal From an Order
Terminating Jane S.'s Parental Rights to Jackie S.,
in the Circuit Court for Bay County,
the Honorable Grover Cleveland, Presiding

NO MERIT BRIEF OF RESPONDENT-APPELLANT
PURSUANT TO WIS. STAT. RULE 809.32

[NAME OF ATTORNEY]
[State Bar No.]

[Contact information]

Attorney for Respondent-Appellant

STATEMENT OF ISSUES

1. Is there sufficient evidence to support the jury verdict that grounds exist to terminate Jane S.'s parental rights regarding Jackie S.?

Not raised in the trial court.

2. Did the court lose competency to proceed when the fact-finding and disposition hearings were held outside of the time limits of Wis. Stat. §§ 48.422(2) and 48.424(4)?

Not raised in the trial court.

3. Did the court err at disposition when it terminated Jane S.'s parental rights regarding Jackie S.?

Not raised in the trial court.

STATEMENT OF THE CASE AND FACTS

On September 2, 2010, the Bay County Human Services Department (hereinafter "County") filed a Petition for Termination of Parental Rights, seeking to terminate Jane S.'s parental rights to her daughter, Jackie S. (hereinafter "Jackie"). (1). The petition alleged Continuing Need of Protection and Services under Wis. Stat. § 48.415(2) as grounds (continuing CHIPS). (1).

Jane S. (hereinafter "Jane") did not consent to the termination of her parental rights, and the case proceeded to jury trial in Bay County before the Honorable Grover

Cleveland. (30).¹ Jackie's father, John S., consented to termination of his parental rights. (36:3; 5).

The County presented seven witnesses. Dr. John Watson, a clinical psychologist, testified that he interviewed Jane as part of a psychological assessment. (30:62; 64-65). He testified that Jane is very bright, understands her children's developmental needs, understood the conditions for the return of her children, and was able to participate in services offered to her. (30:68-70). He testified she had "problematic personality traits" that made it difficult for her to cooperate with authority figures, and interfered with her ability to put her children's needs above her own. (30:71-74). He opined that, at the time of his evaluation, Jane could not be a custodial parent as she was not sufficiently independent and needed more stability. (30:74). He also stated she needed long-term counseling. (30:73).

Faye Dunaway, a social worker for Manitowoc County, testified that she was the social worker in Jackie's case. (30:92,95). The County introduced into evidence the CHIPS disposition order of May 22, 2009, through Dunaway. (30:95-97). The CHIPS order placed Jackie out of the home, stated the conditions Jane would have to meet for the return of Jackie to the home, and listed the services the County would provide. (30:96-97). Dunaway testified that the CHIPS order included the warnings of potential future termination of parental rights, advising Jane of the possibility of termination of parental rights based on continuing CHIPS. (30:97). The order was admitted into evidence.²

¹ The transcript for the first day of trial (R:30), has an incorrect date on the cover page. The correct date is June 7, 2011, as reflected on the record index and exhibit list.

² The exhibits are in the record at R:12. The initial CHIPS dispositional order is Exhibit 1.

Dunaway testified the CHIPS order was revised on September 9, 2009, in a written order which also contained the warnings of potential future termination of Jane's parental rights. (30:100-102). Dunaway testified that the CHIPS order was extended on November 19, 2009, for one year. (30:105). She testified that the petition to terminate Jane's parental rights was filed on September 2, 2010, at which time the CHIPS dispositional order was still in effect. (30:107).

Dunaway testified to the conditions that Jane was required to meet for the return of Jackie to her home, and testified regarding Jane's performance in meeting those conditions. Jane was required to stay in touch with her social worker and cooperate with her. (30:111-12). Dunaway testified that Jane was very cooperative at times, but at other times, she was very defensive and argumentative, and would not provide the County with information. (30:112). Jane was required to agree to alcohol and drug testing, and that she refused to submit to testing at times. (30:115-116). Another condition of return was that she maintain a safe and suitable home; Jane was living for a long period of time at a Domestic Violence Center, which is not a permanent residence. (119-120).

Jane was required to cooperate with visitation and demonstrate parenting ability during visits. (30:121). Dunaway testified that Jane missed many visits. (30:125-130). Jane was required to get mental health counseling; she was discharged from counseling due to too many missed appointments. (30:132-133). Jane also did not complete participation in a domestic violence victim group. (30:136).

Dunaway testified that the County provided services to Jane, pursuant to the CHIPS order, including arranging a visitation schedule, coordinating visits, assisting Jane with

transportation, providing Jane with housing listings, assisting in obtaining counseling, and assisting in communication with Jackie's foster parents. (30:139-145).

Two volunteers with Court Appointed Special Advocates (CASA) testified. (30:171-186). They serve as advocates for children, and they attended visits in Jane's case. (30:171-173; 181-183). They both testified that she missed lots of visits, and one testified she smelled alcohol on Jane's breath on two occasions. (30:171-173; 174; 181-183).

A parent support worker testified that she supervised most of Jane's visits with Jackie. (30:188-189). She testified that Jane had an unacceptable level of attendance at the visits. (30:189). She testified that Jane had no trouble interacting with Jackie, although at times she seemed to have trouble keeping focus on her. (30:190). She said that Jane at times ignored Jackie and argued with her about her case. (30:191-192).

The County called a clinical social worker to testify as well. He testified that Jane participated in one of the domestic violence groups he runs, in a program that lasts 20 weeks. (30:198-199). Jane missed eight out of 20 sessions, and did not complete the program. (30:202-203).

A psychotherapist with Nett-Work Family Counseling also testified. (31:4). She testified that Jane was a client in 2009. (31:5). She testified Jane was terminated from treatment for missing too many appointments. (31:8-9)

A clinical social worker for Aurora Behavioral Health testified she assessed Jane for treatment on August 19, 2010. (31:15-16). She testified that Jane expressed distrust for Human Services, was reluctant to sign releases of information for the County, was irritable and not forthcoming, and did not

appear to be serious about treatment. (31:16-18; 22). She attended only one appointment. (31:23).

Finally, a therapist at Sirius Behavioral Health testified on behalf of the County. (31:46). She testified that she did an assessment of Jane on November 17, 2010, for purposes of anger management treatment. (31:47). Jane scheduled a follow-up appointment but did not attend. (31:48-50).

Jane testified on her own behalf. (31:52). She testified she lives at a domestic violence shelter, and that no one from the County had ever visited her there. (31:53-54; 57). She testified she completed an AODA assessment and that she has no AODA needs. (31:57). She testified she completed a parenting class, and that she independently sought out and obtained mental health care. (31:57; 60). She testified she worked with a physical therapist, was working with the Department of Vocational Rehabilitation to obtain employment, described activities she and Jackie participated in during visits, and said she “got along” with the parent social worker. (31:63-64; 59; 66-67).

She also testified about a domestic violence incident with John S., Jackie’s father. She testified that she “headbutted” him and bit him and was arrested for domestic violence. (31:80; 85). She testified she was intoxicated; he was not intoxicated. (31:85).

The case was submitted to the jury which found in favor of the County. The first special verdict question was whether Jackie had “been adjudged to be in need of protection or services and placed outside the home for a cumulative total period of six months or longer, pursuant to one or more court orders containing the termination of parental rights notice required by law?” The jury unanimously answered yes. (31:141-142).

The second special verdict question was whether the County made “a reasonable effort to provide the services ordered by the Court?” Eleven members of the jury answered yes, and one juror dissented. (31:142).

The third special verdict question was whether Jane had “failed to meet the conditions established for the safe return” of Jackie to the home, to which the jury answered yes. (*Id.*).

The fourth question was whether there was “a substantial likelihood that Jane [S.] will not meet these conditions within the nine month period following the conclusion of this hearing?” Eleven jurors answered yes, with one juror dissenting. (*Id.*).

Judge Cleveland polled the jury, and subsequently found Jane unfit based on the jury’s verdicts. (31:143-146).

The court ordered the preparation of a court report and scheduled a disposition hearing. (31:146-147).

The disposition hearing occurred on October 5, 2011. (36). Faye Dunaway again testified. (36:9). The County and Guardian ad Litem argued in favor of terminating Jane’s parental rights. (36:40-44; 51-52). Jane asked the court not to terminate her parental rights. (36:44). Jane personally addressed the court and asked the court not to terminate her parental rights. (36:46-51).

Having heard the parties’ positions and Dunaway’s testimony, and having considered the court report, the court ordered Jane’s parental rights to Jackie terminated. The court stated that the focus at the hearing is the best interest of the child pursuant to Wis. Stat. § 48.426(2). (36:52). The court observed that Wis. Stat. § 48.426(3) lists six factors the court

must consider at the dispositional hearing. The court found that Jackie was likely to be adopted following termination. (36:54). The court considered the age and health of the child. (36:54-55). The court considered whether Jackie had substantial relationships with a parent or other family members and whether it would be harmful to her to sever these relationships. (36:55). The court recognized that Jackie has a relationship with Jane, and that she knows Jane is her biological mother. The court found, however, that there is no “indication in the record that it would be particularly harmful to Jackie to sever those relationships.” (36:56). The court acknowledged that with any termination of parental rights, there would be some emotional effect, but that it would be more harmful to sever Jackie’s relationship with the foster family with whom she had lived for almost her entire life than to sever her relationship with Jane.³ (36:56).

The court considered the wishes of the child, noting that Jackie is only five-years-old, and thus had not really expressed her wishes. The court did note, however, that Jackie had thrived in the care of her foster family. (36:56-57).

The court considered the duration of the separation of Jackie from Jane, noting that Jackie, at age five, had been out of Jane’s home for nearly four and one-half years. (36:57). The court stated this was “a significant period of separation.” (36:57).

The court stated that Jane had had “more than adequate opportunity” to meet the conditions for return of her child, that the conditions had not yet been met, and that “at a point

³ The court noted this is not a statutory factor to consider, but one that was useful “by way of comparison.” (36:56).

long before today, the issue of permanency should have been more seriously addressed.” (36:57).

The court found that Jackie had been consistently in one foster family placement and had thrived there, and was likely to be adopted by the foster family. (36:58). The court concluded:

So taking all the factors into account here, in the Court’s mind the evidence is very strong and compelling that it’s in Jackie’s best interest for the parental rights of her biological parents to be terminated. It’s in her best interest to obtain some level of finality in her life, to know who her parents are, and to be able to grow up and address all the other considerations that a child has to address, without wondering whether at some point in the child’s life she’s going to be forced to leave the people that she’s grown to know as parents and be moved back to another home.

The Court will, therefore, transfer custody and guardianship, pending adoptive placement, to the State of Wisconsin, Department of Health and Family Services, Division of Child and Family Services.

(36:58-59).

The court entered a written order terminating Jane’s parental rights. (17). She filed a notice of intent to pursue postdisposition relief (20), and counsel subsequently filed a No Merit Notice of Appeal. (23).

ARGUMENT

I. Is There Sufficient Evidence in the Record to Support the Jury's Verdict on Termination Grounds?

Following a jury trial, the jury found in favor of the County, answering “yes” to each of the special verdict questions. Thus, the issue presented is whether the verdict is supported by the evidence. Counsel believes it would be frivolous to argue that the verdict is not supported by the evidence.

“This court’s review of a jury verdict is narrow.” *State v. Quinsanna D.*, 2002 WI App 318, ¶30, 259 Wis. 2d 429, 449, 655 N.W.2d 752. This court will sustain a jury verdict if there is any credible evidence to support it. *Id.*

In order to prevail in terminating Jane’s parental rights to Jackie based on Wis. Stat. § 48.415(2)(a), continuing need of protection or services, the County had to prove four elements by clear and convincing evidence. *See* WIS JI-CHILDREN Pattern Jury Instruction 324A.

Proof of the First Continuing CHIPS Element

First, the County had to prove that Jackie had been adjudged to be a child in need of protection or services and placed or continued in a placement outside Jane’s home for a cumulative period of six months or more, pursuant to one or more court orders containing the termination of parental rights warnings as required by law.

The County proved this element through the testimony of Faye Dunaway, social worker for the County, and the social worker responsible for Jackie’s case. Dunaway testified that a CHIPS order explains “the length of time of the order

and where the child is placed and the conditions that we're asking the parents to do to help them and provide a safe environment for the child." (30:93). Through Dunaway, the County introduced into evidence the CHIPS dispositional order for Jackie dated May 22, 2009. (30:95). The order showed that Jackie was placed in a foster home, which is an out-of-home placement. (30:96). Dunaway testified that the order contained the conditions Jane had to meet for the return of Jackie to her home, and the services for the County to provide. (30:97). Dunaway also testified that the CHIPS order attached a notice concerning grounds to terminate parental rights. (30:97). She testified that the court minutes from the hearing on May 22, 2009, showed that Jane was present at the hearing and that the court read aloud the termination of parental rights warning. (30:98). The CHIPS order was received into evidence. (30:98-99).

Dunaway testified the CHIPS dispositional order was revised by an order entered September 9, 2009. (30:100-101). The order had, as attachments, separate conditions of return for Jane and John S. (*Id.*). That order also contained the termination of parental rights warnings. (30:102). The minutes from the revision hearing showed Jane was present in court and the termination warnings were read to her. (30:102-103). Dunaway testified that the CHIPS dispositional order was extended by order entered on November 19, 2009. (30:104). Attached to the CHIPS order are the conditions of return of the child and the services to be provided to Jane, along with the termination warnings. (30:105-106). Again, Jane was present at the hearing. (30:106).

Dunaway testified that the CHIPS dispositional order was again extended by an order entered on November 18, 2010, for one year. (30:108). Again, attached to the extension order are the conditions of return of the child and the services

to be provided to Jane. (30:108-109). The order also had attached to it the warnings of possible future termination of parental rights. (30:109). Dunaway testified that the court minutes showed Jane was not present at this hearing. (30:109).

Dunaway testified that Jane was placed in a foster home pursuant to the first CHIPS order and that she has been in that placement continuously ever since. (30:110).

Given Dunaway's testimony and the receipt of the CHIPS orders into evidence, (12), it would be frivolous to argue that the County had not proven the first element of the continuing CHIPS ground.

Proof of the Second Element

Second, the County had to prove that the County made a reasonable effort to provide the services ordered by the court. Dunaway testified that the CHIPS order required the County to provide services to Jane to assist her in meeting the conditions of return of the child. (30:138-139). Dunaway described the services the County was required to provide: coordinate and assist with visitation; meet with Jane regularly to discuss case planning and case progress; communicate with the foster family, and coordinate phone calls with Jane and Jackie; assist in obtaining mental health counseling and domestic violence counseling, and obtain releases of information to talk to service providers and monitor the Jane's progress. (30:139-142).

Dunaway testified at length about the visitation schedule coordinated by the County. Initially, Jane had visits three times per week, for two hours, supervised by the parent support worker. (30:123). Dunaway described changes in the schedule caused by staffing for the County, by Jane's move to

the Domestic Violence shelter and in response to Jane's missed visits. (30:123-125). She testified that the parent support worker who supervises the visits puts her notes about the visits into a record keeping system maintained by the County. (30:126). The two CASA workers and the parent support worker testified about their role in attending and assisting with visits. (30:171-194).

The County presented little evidence of meetings with Jane, but noted that Jane missed two meetings with her social worker and that she was not always cooperative with the County. (30:112; 117).

Dunaway testified in a general way that the County communicated with the foster parents regarding the child's needs and coordinated calls between Jane and Jackie. (30:140).

Dunaway testified about referrals the County made for mental health services. Dunaway testified she sent Jane numerous letters about service providers. (30:144). The psychotherapist testified Jane was referred to her for counseling by the County. (31:6).

Dunaway testified that, while Jane did not want to sign release of information forms, she did so eventually. (30:118).

Although not required to do so, the County provided bus passes to Jane to facilitate visitation, and provided information on local housing possibilities. (30:141).

The County's presentation of evidence about the services it provided was not as detailed as its presentation of evidence about Jane's failure to meet the conditions of return. However, the evidence presented was sufficient, and it would

be frivolous to argue that the County failed to prove it made a reasonable effort to provide the services ordered by the court.

Proof of the Third Element

Third, the County had to prove that Jane failed to meet the conditions established for the safe return of Jackie to the home. Dunaway testified regarding the conditions Jane had to meet for the return of Jackie to her home. She testified one condition was that Jane stay in touch with and cooperate with the County. (30:111). Dunaway testified to incidents when Jane did not cooperate with the County, for example when she refused to take an alcohol test, did not promptly sign release of information forms and failed to notify the County of changes of address. (30:114-118).

Another condition of return was that Jane cooperate with visits. (30:121). Dunaway testified that Jane missed many visits, and that the County imposed a requirement that Jane call before visits to avoid the situation of Jackie being brought to a visit when Jane would not be available. (30:127).

Another condition of return was that Jane participate in a domestic violence program. (30:136). Dunaway testified that Jane participated in a program but that she failed to complete it due to missing too many sessions. (30:136-137). Another condition of return was that she follow the mental health assessment. (30:132). Dunaway testified Jane was discharged from counseling due to missing too many appointments. (30:133).

Given the evidence presented that Jane missed many visits, was terminated from domestic violence counseling and mental health counseling for missing appointments, counsel believes it would be without arguable merit to claim that the

evidence was not sufficient for the jury to find that Jane failed to meet the conditions for the return of Jackie to her home.

Proof of the Fourth Element

Finally, the County had to prove that there is a substantial likelihood that Jane would not meet the conditions for the safe return of Jackie within the nine-month period following the conclusion of the hearing. The pattern jury instruction for continuing CHIPS, WIS JI-CHILDREN 324A provides guidance for the jury. It instructs that the jury may consider a number of factors in deciding whether there is a substantial likelihood that the parent will not meet the conditions for the safe return of the child within the next nine months, including the length of time the child had been in an out-of-home placement, the number of times the child had been removed from the home, the parent's performance in meeting the conditions of return, the parent's cooperation with the social service agency, the parent's conduct during periods in which the child had contact with the parent, and all other evidence that would assist in deciding the special verdict question. The jury in this case received this instruction. (31:99).

In this case, the County presented evidence that, at age 5, Jackie had been in foster care for 24 months, and that once Jackie had been removed from Jane's home, she was not returned to the home. (30:110). The County presented evidence that Jane's visitation schedule had been reduced rather than increased due to missed visits. (30:125). It introduced evidence that Jane had repeatedly failed to follow through on mental health counseling, being discharged due to missed visits. (30:133; 136). Given this evidence, the jury could fairly conclude that Jane would not change behavior

such that she would be able to complete all of the conditions for the return of Jackie to her home in the next nine months.

In sum, applying the test stated in *Quinsanna D.*, 259 Wis. 2d at 449, ¶30, of “any credible evidence” to support the jury’s verdict, counsel believes it would be frivolous and without arguable merit to claim that the County failed to prove continuing CHIPS as ground for terminating Jane’s parental rights to Jackie.

II. Did the Court Lose Competency to Proceed When the Fact-Finding and Disposition Hearings Were Held Outside of the Time Limits of Wis. Stat. §§ 48.422(2) and 48.424(4)?

It might be argued on appeal that the order terminating Jane’s parental rights to Jackie should be vacated because the fact-finding and disposition hearings were held outside the time limits of Wis. Stat. §§ 48.422(2) and 48.424(4). Pursuant to Wis. Stat. § 48.422(2), the fact-finding hearing in a termination of parental rights case must take place within 45 days of the first hearing on the petition, and the disposition hearing must take place within 45 days of the fact-finding hearing, pursuant to Wis. Stat. § 48.424(4).

Counsel believes there would be no merit to a claim that the court lost competency in this case in light of Wis. Stat. § 48.315. First, Wis. Stat. § 48.315(3) provides that the failure to act within the time limits of Chapter 48 does not deprive the court of jurisdiction, and the failure to object waives any challenge to the court’s competency to act. Second, with respect to the fact-finding hearing, a substantial part of the delay was caused by Jane, specifically the judicial substitution and withdrawal of trial counsel. (26:3-4; 29: 2-3). With respect to the disposition hearing, Jane also appeared to acquiesce in the delay. At the status hearing on July 26, 2011,

Jane stated she had no objection to tolling time limits in light of John S.'s (the father's) filings, believing that proceeding to disposition prior to the conclusion of the father's case would make her disposition presentation less effective. (35:3-4).

Thus, counsel does not believe there would be merit to a claim that the court lost competency to proceed.

III. Did the Trial Court Properly Exercise Its Discretion at the Disposition Hearing When it Decided to Terminate Jane's Parental Rights?

The determination whether to terminate parental rights is a decision "committed to the sound discretion of the circuit court." *In re Interest of Brandon S.S.*, 179 Wis. 2d 114, 150, 507 N.W.2d 94 (1993). Thus, the second issue presented is whether the trial court properly exercised its discretion at the disposition hearing when it terminated Jane's parental rights.

Disposition is governed by Wis. Stat. §§ 48.426 and 48.427. Under Wis. Stat. § 48.427(2), the court may dismiss the termination of parental rights petition if it finds that the evidence does not warrant termination. Under Wis. Stat. § 48.427(3), the court may order termination of the parent's rights.

Wisconsin Statutes § 48.426 lists what the court must consider in making the disposition decision. The section instructs that the "best interests of the child shall be the prevailing factor considered by the court in determining" the disposition. *See* Wis. Stat. § 48.426(2). Wisconsin Statutes § 48.426(3) gives a non-exhaustive list of factors the court should consider when deciding whether to terminate the parent's right:

- (a) The likelihood of the child's adoption after termination.
- (b) The age and health of the child, both at the time of the disposition and, if applicable, at the time the child was removed from the home.
- (c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever these relationships.
- (d) The wishes of the child.
- (e) The duration of the separation of the parent from the child.
- (f) Whether the child will be able to enter into a more stable and permanent family relationship as a result of the termination, taking into account the conditions of the child's current placement, the likelihood of future placements and the results of prior placements.

At the disposition hearing, Judge Cleveland considered each of these factors, and stated that his decision was guided by the best-interest-of-the-child standard. (36:52-53). The court noted the background information it had read in the court report. (36:53).

As to the specific statutory factors, the court noted the testimony was that Jackie would likely be adopted by the foster family with whom she was then living. (36:54). The court stated that even if she was not adopted by her foster family, adoption was very likely. (*Id.*).

The court considered Jackie's age and health. (36:54). The court noted that Jackie had a severe case of diaper rash when she was removed from Jane's home, which, while not a serious medical problem, was indicative of neglect. (*Id.*). The

court noted that Jackie was in good health at the time of disposition. (36:55).

The court considered whether Jackie had a substantial relationship with Jane or other family member, and whether it would be harmful to sever those relationships. (36:55). The court observed that Jackie knew Jane as her biological mother and that they had had visits, but concluded that it would not be harmful to sever the relationship between Jackie and Jane. (36:55-56). The court compared the possibility of severing the relationship between Jackie and her foster parents as opposed to severing the relationship between Jackie and Jane. (36:56).

It might be argued that this is not one of the factors listed in Wis. Stat. § 48.426, and thus should not be considered, or that it is improper to compare these two alternatives as the court was not required to sever *either* relationship. However, the context of the court's remarks was that Jackie needed to have a permanent home, and that the stable, permanent home that was best for her was the foster family. For example, when the court considered the duration of the separation of Jackie from her mother, it said that Jane had had more than adequate opportunity to meet the conditions for return, and they had not yet been met, adding: "And at some point, and according to the federal law, it's at a point long before today, the issue of permanency should have been more seriously addressed." (36:57).

The court stated that the duration of separation of Jackie from Jane was one of the significant factors in the case. (36:57).

It might be argued that the court erred in the factual underpinnings of this factor. Social worker Dunaway testified the Jackie was out of Jane's home for the previous 24 months, while the court stated she had been out of the home for 4 and

one-half years. (30:110; 36:57-58). The Court report states Jackie was removed from the home when she was eight months old. Counsel believes, however, that the distinction between 24 months and 4.5 years would not have mattered to the court in light of its conclusion that Jackie's foster family was the family Jackie regards as her family. (36:56-57).

Finally, the court stated that the child would be able to enter into a more stable and permanent family relationship if it were to terminate Jane's parental rights. (36:57-58).

The court then concluded it would be in Jackie's best interests to terminate her biological parents' rights. The court entered an order terminating parental rights accordingly. (17).

This record shows that the trial court properly applied the law to the facts as presented in the jury trial testimony, disposition hearing testimony and the court report. Counsel believes it would be frivolous and without arguable merit to argue the court erred in deciding to terminate Jane's parental rights to Jackie.

CONCLUSION

For these reasons, counsel has concluded that any grounds which might arguably support an appeal or postdisposition motion in this matter would be frivolous and without arguable merit. Therefore, counsel respectfully requests that the court release her from further representation of the respondent in this matter.

Dated this 8th day of March, 2012.

Respectfully submitted,

[NAME OF ATTORNEY]
[State Bar No.]

[Contact information]

Attorney for Respondent-Appellant

**CERTIFICATION IN COMPLIANCE
WITH 809.32(1)(b)**

I hereby certify that I have discussed with my client all potential issues identified by me and by my client and the merit of an appeal on these issues, and I have informed my client that he/she must choose one of the following 3 options: 1) to have me file a no-merit report; 2) to have me close the file without an appeal; or 3) to have me close the file and to proceed without an attorney or with another attorney retained at my client's expense. I have informed my client that a no-merit report will be filed if he/she either requests a no-merit report or does not consent to have me close the file without further representation. I have informed my client that the transcripts and circuit court case record will be forwarded at his/her request. I have also informed my client that he/she may file a response to the no-merit report and that I may file a supplemental no-merit report and affidavit or affidavits containing matters outside the record, possibly including confidential information, to rebut allegations made in my client's response to the no-merit report.

Dated this 8th day of March, 2012.

Signed:

[NAME OF ATTORNEY]
[State Bar No.]

[Contact information]

Attorney for Respondent-Appellant

**CERTIFICATE OF COMPLIANCE
WITH RULE 809.19(12)**

I hereby certify that:

I have submitted an electronic copy of this no-merit brief, excluding the appendix, if any, which complies with the requirements of § 809.19(12). I further certify that:

This electronic no-merit brief is identical in content and format to the printed form of the no-merit brief filed on or after this date.

A copy of this certificate has been served with the paper copies of this no-merit brief filed with the court and served on all opposing parties.

Dated this 8th day of March, 2012.

Signed:

[NAME OF ATTORNEY]
[State Bar No.]

[Contact information]

Attorney for Respondent-Appellant