

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 3, 2003

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 03-1098

Cir. Ct. No. 02TP000219

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

**IN RE THE TERMINATION OF PARENTAL RIGHTS TO
MIKERIYA T.D.B., A PERSON UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

LATASHA B.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Milwaukee County:
CHRISTOPHER R. FOLEY, Judge. *Affirmed.*

¶1 WEDEMEYER, P.J.¹ Latasha B. appeals from an order terminating her parental rights to her four-year-old daughter, Mikeriya T.D.B. She claims that

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2001-02).

the trial court erroneously exercised its discretion when it terminated her parental rights, citing her “remarkable progress.” Because the trial court did not erroneously exercise its discretion when it ordered termination of Latasha’s parental rights, this court affirms.

I. BACKGROUND

¶2 Mikeriya was born on December 23, 1998, to Tasha Latrice B. (Latasha). Latasha moved to Milwaukee from Mississippi when Mikeriya was eight or nine months old. She lived with her boyfriend, Terrell Stokes. On December 23, 1999, paramedics responded to a 911 call and found Mikeriya unresponsive on a couch. Neither Latasha nor any other adult was present in the home. The only other person in the home was nine-year-old, Octavius F. Mikeriya suffered skull fractures, blunt trauma to the abdomen, and a stroke and seizures as a result of the injuries.

¶3 Latasha told hospital staff and a caseworker that she had left Mikeriya with Octavius from 10:00 a.m. until noon, she came home to feed Mikeriya lunch, left again, and did not return until 8:30 p.m. Later, during a deposition, Latasha claimed she was only gone for ten minutes in the morning and thirty minutes in the evening.

¶4 Following the incident, Mikeriya was removed from the home as a child in need of protection or services. Latasha was placed in the same home as Mikeriya for a period of one month. During this time, Latasha used marijuana, stayed out all night, and failed to cooperate with the foster mother. Latasha did not provide care for Mikeriya. As a result, Mikeriya was moved to the foster home of Tammy and Patrick E.

¶5 Latasha moved to LaCrosse and participated in care provided at Gerard Hall, which offered assistance to young mothers. The bureau of Milwaukee child welfare provided Latasha with clothing allowances, bus tickets, and hotel costs when Latasha returned to Milwaukee for visitation or court appearances. The bureau also paid for food and living expenses and the cost of Gerard Hall. Caseworkers also transported Mikeriya to LaCrosse for visitation, a four-hour drive. The caseworkers indicated that Mikeriya would cry the entire four hours because she did not want to go to the visits.

¶6 The social worker assigned to the case, Christina Fugate, testified that Latasha did not have a parental relationship with Mikeriya, but that the foster parents did have a strong parental bond. Mikeriya called her foster parents mommy and daddy. She has lived with them for three of her four years. They are a willing and available adoptive resource.

¶7 While in Gerard Hall, Latasha did make progress. She finished high school, found a full-time job, followed the rules, and completed some therapy. However, Latasha failed to attend several scheduled visits with Mikeriya and did not call to indicate why she did not appear. Latasha admitted that she only had contact with Mikeriya when it was convenient for her.

¶8 On March 29, 2002, the State filed a petition seeking to terminate Latasha's parental rights. The petition alleged failure to assume parental responsibility and abandonment as grounds for termination. An amended petition was filed later adding continuing need of protection or services. Latasha pled no contest on the grounds phase of the petition, but contested the disposition phase.

¶9 On January 17, 2003, the dispositional hearing was held and the court found that it was in the best interests of Mikeriya to terminate Latasha's

parental rights. An order doing so was entered on January 24, 2003. Latasha appeals from that order.

II. DISCUSSION

¶10 In essence, Latasha's argument is that the trial court erroneously exercised its discretion in finding that it was in the best interests of Mikeriya to terminate parental rights. She argues that given her "remarkable" improvement, it would have been in the best interests of Mikeriya to reunite mother and daughter. This court cannot agree.

¶11 This court is bound by a deferential standard of review and will not overturn the trial court's determination unless it erroneously exercised discretion. *Rock County Dep't of Social Serv. v. K.K.*, 162 Wis. 2d 431, 441, 469 N.W.2d 881 (Ct. App. 1991). If the trial court considered the proper facts, applied the correct law and reached a reasonable determination, this court will affirm.

¶12 In making a determination of what is in the best interests of the child, the trial court is guided by WIS. STAT. § 48.426(3) (2001-02), which sets forth six factors: (1) the likelihood of the child's adoption; (2) the age and health of the child; (3) whether the child has any substantial relationships with the birth family which would be harmed by termination; (4) the wishes of the child; (5) the time the child and parent have been separated; and (6) "[w]hether 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."

¶13 The trial court found that each of the six factors favored termination. There was no question that the foster family who Mikeriya had lived with for three

of her four years would adopt her. The court found that Mikeriya did not have any substantial relationship with the birth family, and that Mikeriya wanted to be adopted by her foster parents. Finally, the trial court found that termination would result in “a permanent, loving, more permanent stable family relationship.” All of the statutory factors demonstrated that termination was in Mikeriya’s best interests.

¶14 The trial court, however, still struggled with the decision because Latasha appeared to have straightened out her life and made remarkable progress. She went from everything conceivable to destroy her life to being a productive member of society.

¶15 The transformation, however, took three years—or 75% of Mikeriya’s entire life. Further, there was no guarantee that Latasha would continue with a stable, responsible lifestyle. Therefore, the trial court found it was in the best interests of Mikeriya to order termination. This court cannot conclude that the trial court’s decision constituted an erroneous exercise of discretion. Termination decisions are inevitably difficult choices to make, particularly in circumstances where parents have made progress toward responsible living. The trial court in this case made a difficult decision. The decision, nevertheless, was based on proper factors, the correct law and certainly was reasonable. Accordingly, this court affirms.²

² Latasha also attempts to argue that the system missed opportunities to reunite her with her child. She has waived any argument that the “system failed her” when she entered her no contest plea on the grounds phase of this action.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE
809.23(1)(b)4.

