

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 18, 2010

David R. Schanker
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. 2010AP416

Cir. Ct. No. 2009TP5

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

**IN RE THE TERMINATION OF PARENTAL RIGHTS TO JONATHAN H., A PERSON
UNDER THE AGE OF 18:**

OZAUKEE COUNTY HUMAN SERVICES DEPARTMENT,

PETITIONER-RESPONDENT,

v.

SARAH H.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Ozaukee County:
PAUL V. MALLOY, Judge. *Affirmed.*

Before Brown, C.J., Neubauer, P.J., and Anderson J.

¶1 BROWN, C.J. A jury found that two alternative grounds existed to terminate Sarah H.'s parental rights.¹ She challenges both findings. We need discuss only one of them because that one is dispositive. We deem that issue to be whether the supreme court's recent decision in *Sheboygan County DH&HS v. Tanya M.B.*, 2010 WI 55, Nos. 2008AP3065, 2008AP3066, 2008AP3067, 2009AP136, 2009AP137 & 2009AP138, controls the outcome in this case. We hold that it does and affirm.

¶2 Ozaukee County Human Services Department alleged, as one ground for termination of Sarah H.'s parental rights, that her son was in continuing need of protection and services. In her initial briefing, she contended, inter alia, that the Department first had to prove that the court ordered it to provide certain services and that a reasonable effort to provide those services was made. She pointed out that the court order did not specify the services to be provided. She contended that the department failed to meet its burden of proof as a result. Because the issue of what WIS. STAT. §§ 48.415(2)(a)2.b. and 48.355(2)(b)1. require in terms of "the specific services to be provided" in a written court order

¹ This case was originally scheduled to be a one-judge opinion. On the court's own motion, it was converted to a three-judge panel by order of the Chief Judge of the Court of Appeals dated April 9, 2010. See WIS. STAT. RULE 809.41(3).

was before the supreme court in *Tanya M.B.*, 2010 WI 55, we held this case in abeyance pending the supreme court opinion.²

¶3 On June 29, 2010, the supreme court released its opinion in *Tanya M.B.* Of particular import here, the court wrote:

As stated, we conclude that the dispositional orders contained “specific services,” as required by Wis. Stat. § 48.355(2) (b)1. We so conclude because § 48.355(2)(b)1. does not require a CHIPS dispositional order to separately list each individual service that the Department is ordered to provide *so long as the Department is ordered to provide “supervision,” “services” and “case management”* and the order also provides detailed conditions that the parents must complete in compliance with the dispositional order.

Tanya M.B., 2010 WI 55, ¶ 33 (emphasis added; footnote omitted.)

¶4 Following this opinion, we asked Sarah H. whether she conceded that the opinion controlled her case and she requested supplemental briefing to argue that her case was different. We granted her request and both parties submitted supplemental briefs. Sarah’s claim is that, unlike the dispositional orders in Tanya’s case, the dispositional order in her case did not require the department to provide “supervision,” “services” and “case management.” She does admit that item five of the order referred to “[s]ervices to be provided to child and family,” but argues that that it did not assign responsibility for providing

² Under WIS. STAT. RULE 809.107(6)(e), this court is required to issue its decision within thirty days after the filing of the reply brief. In this case, the reply brief was filed on March 25, 2010. On April 23, 2010, this court placed the appeal on hold pending the decision of the Wisconsin Supreme Court in *Sheboygan County DH&HS v. Tanya M.B.*, 2010 WI 55, Nos. 2008AP3065, 2008AP3066, 2008AP3067, 2009AP136, 2009AP137 & 2009AP138. The Supreme Court issued its decision on June 29, 2010. The parties were then given the opportunity to file supplemental briefs addressing the impact of *Tanya M.B.* on this appeal. The last of the supplemental briefs was filed on August 3, 2010. On this court’s own motion, the decisional deadline of RULE 809.107(6)(e) is extended to the date of this decision

services to any agency or person. Sarah also admits that item two of the dispositional order addressed Jonathon’s placement, ordering him “into the placement and care responsibility of the ... Ozaukee county department, which has primary responsibility for providing services.” Still, she argues that item two did not order the department to provide “supervision,” “services” and “case management” to Sarah. She contends that, in sum, nothing in this case’s CHIPS dispositional order required the Department to provide “supervision,” “services” and “case management” to Sarah.

¶5 We disagree. What this comes down to is an argument that the dispositional order must contain a magical phrase—“supervision, services and case management” and that the order specifically be directed, in the same breath, with a named social service department. We reject that argument. What the supreme court pointedly held was that “specific services” need not be listed in the order—all that is needed is a command by the trial court that the named social services department *do* services, *do* supervise the parent and *do* manage the parent and that the parent knows and the department knows that this is what needs to be done. The order in this case did just that. It orders services to be provided by the department and it orders the Department to take “responsibility” for the care of the parent-child relationship. We read item 2 and item 5 together because that is the commonsense reading of the order. After doing so, we conclude that this case is governed by *Tanya M.B.* and affirm.

By the Court.—Order affirmed.

Not recommended for publication in the official reports.