In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-15-00462-CV

IN THE INTEREST OF C.E.K., A CHILD

On Appeal from the 223rd District Court
Gray County, Texas
Trial Court No. 38033, Honorable Phil N. Vanderpool, Presiding

August 24, 2016

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

This appeal involves an order terminating the parental rights of K. to his daughter. K. concedes in his supplemental brief that sufficient evidence supports the trial court's finding that termination was in the best interests of the child.[1] He, however, questions the sufficiency of the evidence underlying the trial court's findings that five statutory grounds encompassed within the Texas Family Code § 161.001 *et seq* support termination. We affirm for the following reason.

[1] K. states in the document that upon "reviewing [the *Holley*] factors, [*Holley v. Adams*, 544 S.W.3d 367 (Tex. 1976)] and the rest of the testimony given at the trial in this case, Appellant concludes that sufficient evidence does exist to prove that termination of parental rights would be in the best interest of the child."

According to the reporter's record filed at bar, the trial court took judicial notice of "the Court's file and the Court's record to the extent permitted by statutes and rules, including specifically the *social study* in Cause Number 38,033 . . . [and] . . . the Court's file and record in Cause Number *37,889*." (Emphasis added). Cause number 38,033 is the cause number assigned to the suit underlying this appeal. Cause number 37,889 is the cause number assigned to the divorce action between K. and C., the biological parents of the child in question. The appellate record before us contains neither the "social study" alluded to by the trial court nor the "file and record in Cause Number 37,889." Also missing from the appellate record is K.'s request that those items be included in the appellate record. This omission is of import.

An appellant has the burden to bring forward a record that enables the reviewing court to determine whether the issues raised on appeal constitute reversible error. *Umeh v. Rivas*, No. 05-15-00784-CV, 2016 Tex. App. LEXIS 6587, at *2-3 (Tex. App.—Dallas June 22, 2016, no pet.) (mem. op.); *Wiegand v. Kinnard*, No. 07-15-00406-CV, 2016 Tex. App. LEXIS 3219, at *2 n.1 (Tex. App.—Amarillo March 29, 2016, no pet.) (mem. op.). Should evidence or other matter considered by the trial court in rendering the decision under attack be omitted from the appellate record and the appellant fails to comply with Texas Rule of Appellate Procedure 34.6(c)(1), we must presume that the missing information supports the trial court's decision.[2] *Umeh v. Rivas*, 2016 Tex. App. LEXIS 6587, at *2-3; *Weigand v. Kinnard*, 2016 Tex. App. LEXIS 3219, at *2-3; *accord, Mansfield v. Russell*, No. 13-10-00193-CV, 2011 Tex. App. LEXIS 8366, at *37-38 (Tex. App.—Corpus Christi-Edinburg October 20, 2011, no pet.) (mem. op.) (presuming that

[2] Texas Rule of Appellate Procedure 34.6(c)(1) states that "[i]f the appellant requests a partial reporter's record, the appellant must include in the request a statement of the points or issues to be presented on appeal and will then be limited to those points or issues."

the exhibits admitted into evidence yet omitted from the appellate record supported the jury's finding of zero damages).

K. did not request a partial reporter's record. Nor did he request that the "social study" or "file and record" in cause number 37,889 be included in the appellate record. Because the trial court took judicial notice of those items at trial before rendering its decision, they were needed to comprise a complete record sufficient to show reversible error. Their omission, therefore, means that K. failed to carry the aforementioned burden imposed on him, and, consequently, we presume that the missing information support's the trial court's decision terminating K.'s parental rights.

K.'s issues are overruled, and the judgment is affirmed.

Per Curiam