



**In The  
Court of Appeals  
Seventh District of Texas at Amarillo**

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No. 07-17-00035-CV

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**IN THE INTEREST OF A.P., A CHILD**

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On Appeal from the 137th District Court  
Lubbock County, Texas  
Trial Court No. 2015-516,611, Honorable Kevin C. Hart, Presiding

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May 19, 2017

**MEMORANDUM OPINION**

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

This is an appeal from the trial court's order terminating the parental rights of S.S. and A.P. Sr. to their child, A.P.<sup>1</sup> Appointed appellate counsel for the parents has filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). Finding no arguable grounds for appeal, we affirm the trial court's judgment.<sup>2</sup>

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<sup>1</sup> To protect the child's privacy, we refer to the parents and the child by their initials. See TEX. FAM. CODE ANN. § 109.002(d) (West 2011); TEX. R. APP. P. 9.8(b).

<sup>2</sup> Counsel properly has filed a motion to withdraw from representation of the parents. This Court will not rule on that motion because counsel has a continuing duty

## Background

The Texas Department of Family and Protective Services filed pleadings alleging several grounds for termination of the parents' parental rights to their only child A.P. The child was removed from the hospital after A.P. tested positive for methamphetamine at birth. The mother admitted to drug use during pregnancy. A.P. was placed in the home of his maternal grandparents but was later placed with a foster parent after disagreements arose between the grandmother and S.S. At the time of the final hearing, A.P. was living with his foster mother who planned to adopt him.

The final hearing was held after several months of work by the Department and the parents toward completion of their service plan. Both parents were represented by appointed counsel during the proceedings. Neither parent appeared for the final hearing but counsel for S.S. and A.P. Sr. informed the court both parents had signed irrevocable affidavits of voluntary relinquishment of their parental rights. See TEX. FAM. CODE ANN. § 161.103 (West 2015) (setting forth requirements for affidavit of voluntary relinquishment of parental rights). The documents bore the requisite signatures and initials on each page and included language notifying the parents of the irrevocable nature of the relinquishment. They contained waivers of notice and service of process. The trial court accepted the affidavits and heard additional evidence. The trial court's termination order reflects its finding that clear and convincing evidence shows S.S. and A.P. Sr. "executed before or after the suit is filed an unrevoked or irrevocable affidavit of

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of representation through the exhaustion of proceedings, including the possible filing of a petition for review. See *In re P.M.*, \_\_\_ S.W.3d \_\_\_, No. 15-0171, 2016 Tex. LEXIS 236, at \*8, n.10 (Tex. 2016) (per curiam) (designated for publication).

relinquishment of parental rights as provided by Chapter 161, Texas Family Code, pursuant to § 161.001(b)(1)(K), Texas Family Code.” The written order further shows the trial court also determined by clear and convincing evidence that termination of the parent-child relationship between the parents and the child was in A.P.’s best interest.

### Analysis

Pursuant to *Anders*, S.S. and A.P. Sr.’s counsel has filed a brief stating counsel has diligently reviewed the record and the applicable law and has concluded that, in his professional opinion, the record shows no arguably meritorious issue on which to base an appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) (orig. proceeding); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991) (en banc); *In re A.W.T.*, 61 S.W.3d 87, 88 (Tex. App.—Amarillo 2001, no pet.) (the procedures set forth in *Anders v. California* are applicable to appeals of orders terminating parental rights).

In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978), counsel has carefully discussed why, under controlling authority, there are no errors in the trial court’s judgment. The record also reflects counsel’s performance of the educational burdens imposed when an attorney informs the appellate court that the appeal is frivolous. See *Kelly v. State*, 436 S.W.3d 313, 319-20 (Tex. Crim. App. 2014) (setting forth burdens on counsel); *In re Schulman*, 252 S.W.3d at 409 n.23. By letter, we also informed the parents of their right to file a *pro se* response to counsel’s *Anders* brief and motion. *In re Schulman*, 252 S.W.3d at 409. The parents have not filed a response.

When the Court receives a “frivolous appeal” brief, we must conduct “a full examination of all the proceedings to decide whether the case is wholly frivolous.” *Penson v. Ohio*, 488 U.S. 75, 80, 109 S. Ct. 346, 102 L. Ed. 2d 300 (1988). We have reviewed the entire record and counsel’s brief, and have found nothing that would arguably support an appeal. See *Bledsoe v. State*, 178 S.W.3d 824, 826-28 (Tex. Crim. App. 2005); *Stafford*, 813 S.W.2d at 509.

Family Code section 161.001(b)(1)(K) permits a trial court to terminate the parent-child relationship if it finds by clear and convincing evidence that the parent has executed a valid, unrevoked or irrevocable affidavit of relinquishment of parental rights. TEX. FAM. CODE ANN. § 161.001(1)(K). The trial court did so here as to each parent and, as noted, the affidavits appear in the record.

An affidavit of relinquishment alone can provide sufficient evidence that termination is in a child’s best interests. *In re C.E.*, No. 02-14-00054-CV, 2014 Tex. App. LEXIS 8694, at \*8-9 (Tex. App.—Fort Worth Aug. 7, 2014, no pet.) (mem. op.). Here, in addition to the signed affidavit of each parent, the court heard evidence of A.P.’s current placement with his foster mother. The caseworker told the court the foster mother planned to adopt A.P. and A.P. is “very bonded” to her. And, the court heard the caseworker’s opinion that termination of the parents’ parental rights to A.P. was in A.P.’s best interest. The Department’s caseworker told the court that the parents had been unable to maintain “stability or sobriety.” The record reflects also that S.S.’s mother and stepfather intervened in the case at a point, but nonsuited their intervention at the final hearing.

In the brief, counsel has given particular attention to the law regarding revocation of relinquishments, and concludes the record depicts no effort by the parents to revoke the relinquishment each executed. After our review of the record, we agree with counsel that the record reflects no basis on which the parents can avoid the consequences of their voluntary relinquishment of their parental rights to A.P. Nor do we find any arguably meritorious contention that the evidence was insufficient to support termination under section 161.001(1)(K). *In the Interest of Z.F.*, No. 07-14-00448-CV, 2015 Tex. App. LEXIS 3998, at \*4 (Tex. App.—Amarillo April 21, 2015, no pet.) (mem. op.) (citing *In re C.H.*, 89 S.W.3d 17, 28 (Tex. 2005) (applicable standards in parental termination cases); *In re C.E.*, 2014 Tex. App. LEXIS 8694, at \*12-15 (sufficiency under § 161.001(b)(1)(K)). The same is true with respect to the trial court’s finding that termination was in the best interests of the child. *In the Interest of Z.F.*, 2015 Tex. App. LEXIS, at \*4 (citing *In re R.R.*, 209 S.W.3d 112, 116 (Tex. 2006); TEX. FAM. CODE ANN. § 263.307(a) (West 2014); *In the Interest of A.C.B.*, 198 S.W.3d 294, 298 (Tex. App.—Amarillo 2006, no pet.)).

As required, we have independently examined the entire record and counsel’s brief to determine whether there are any non-frivolous issues which might support the appeal. *Stafford*, 813 S.W.2d at 511. We agree with counsel there are none. Accordingly, the trial court’s order terminating the parental rights of S.S. and A.P. Sr. is affirmed.

James T. Campbell  
Justice