IN THE
TENTH COURT OF APPEALS

No. 10-17-00177-CV

IN THE INTEREST OF Z.N. AND C.N., CHILDREN

From the 74th District Court
McLennan County, Texas
Trial Court No. 2015-1584-3

MEMORANDUM OPINION

This is an appeal from the trial court's final order in a suit brought by the Department of Family and Protective Services for protection of a child, for conservatorship, and for termination in suit affecting the parent-child relationship. In its final order, the trial court did not terminate the parental rights of the children's parents, but instead, appointed the children's father as sole managing conservator and the children's mother, Z.M., as possessory conservator of the children. Z.M.'s appointed appellate counsel filed a notice of appeal. Z.M.'s counsel has now filed an *Anders* brief and a motion to withdraw. Counsel asserts that he has diligently reviewed the record and that, in his opinion, the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 87

S.Ct. 1396, 18 L.Ed.2d 493 (1967); *In re E.L.Y.*, 69 S.W.3d 838, 841 (Tex. App.—Waco 2002, order) (applying *Anders* to termination appeal); *see also In re J.E.L.*, No. 04-15-00634-CV, 2016 WL 1359354, at *1 (Tex. App.—San Antonio Apr. 6, 2016, pet. denied) (mem. op.) (applying *Anders* to final order in which trial court did not terminate appellant mother's parental rights, but appointed maternal grandmother as children's managing conservator and children's parents as possessory conservators).

Counsel's brief meets the requirements of *Anders*; it presents a professional evaluation demonstrating why there are no arguable grounds to advance on appeal. *See In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) ("In Texas, an *Anders* brief need not specifically advance 'arguable' points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities."); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991). Counsel has carefully discussed why, under controlling authority, there is no reversible error in the trial court's final order. Counsel has informed us that he has: (1) examined the record and found no arguable grounds to advance on appeal; (2) served a copy of the brief, counsel's motion to withdraw, and the appellate record on Z.M.; and (3) informed Z.M. of her right to file a *pro se* response. *See Anders*, 386 U.S. at 744, 87 S.Ct. at 1400; *Stafford*, 813 S.W.2d at 510 n.3; *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978); *see also Schulman*, 252 S.W.3d at 409 n.23. Z.M. did not file a *pro se* response.

Upon receiving an *Anders* brief, we must conduct a full examination of all the

proceedings to determine whether the case is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80, 109 S.Ct. 346, 349-50, 102 L.Ed.2d 300 (1988). An appeal is "wholly frivolous" or "without merit" when it "lacks any basis in law or fact." *McCoy v. Court of Appeals*, 486 U.S. 429, 439 n.10, 108 S.Ct. 1895, 1902 n.10, 100 L.Ed.2d 440 (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, 827-28 (Tex. Crim. App. 2005) ("Due to the nature of *Anders* briefs, by indicating in the opinion that it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirement of Texas Rule of Appellate Procedure 47.1."); *Stafford*, 813 S.W.2d at 509. Accordingly, we affirm the trial court's final order. We deny counsel's motion to withdraw. *See In re P.M.*, 520 S.W.3d 24, 27-28 (Tex. 2016); *In re G.P.*, 503 S.W.3d 531, 534-36 (Tex. App.—Waco 2016, pet. denied).

REX D. DAVIS
Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Affirmed
Opinion delivered and filed September 20, 2017
[CV06]