

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-10-00767-CV

A. M., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF HAYS COUNTY, 207TH JUDICIAL DISTRICT
NO. 2010-0384, HONORABLE CHARLES R. RAMSAY, JUDGE PRESIDING**

MEMORANDUM OPINION

This accelerated appeal is from a section 263.405 order concerning the termination of appellant's parental rights with her child. *See* Tex. Fam. Code Ann. § 263.405 (West 2008). After conducting a section 263.405 hearing, the trial court found appellant's appeal frivolous and appointed an attorney on appeal of the section 263.405 order only. *See id.* § 263.405(e).

Appellant's court-appointed counsel has filed a motion to withdraw and appoint attorney and a motion for extension of time to file appellant's brief. Appellant's counsel seeks to withdraw based upon factual representations that she made to the trial court at the final termination hearing. Appellant's counsel represents that the Texas Department of Family and Protective Services does not oppose her motion to withdraw.

We construe her motion as a motion to abate the appeal for the trial court to consider appellant's motion to withdraw and to appoint a new appellate attorney. *See id.* Accordingly, we

abate this appeal for fifteen days and remand the cause to the district court of Hays County to consider counsel's motion to withdraw and appoint a new appellate attorney. All appellate deadlines will be tolled during the period of abatement. Any orders resulting therefrom shall be filed with the clerk of this Court no later than February 10, 2011.

Melissa Goodwin, Justice

Before Chief Justice Jones, Justices Henson and Goodwin

Abated

Filed: January 25, 2011