

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-15-00743-CV

S. O., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 201ST JUDICIAL DISTRICT
NO. D-1-FM-14-002430, HONORABLE ORLINDA NARANJO, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant S.O. (“Mother”) appeals from the trial court’s final order terminating her parental rights to her daughter, K.D.¹ *See* Tex. Fam. Code § 161.001. Following a bench trial, the trial court entered judgment in accordance with its findings by clear and convincing evidence that statutory grounds for terminating Mother’s parental rights existed and that termination was in the child’s best interest. *See id.* § 160.001(b)(1)(D), (E), (O), (2).

Mother’s court-appointed counsel has since filed a motion to withdraw and a brief concluding that the appeal is frivolous and without merit. *See Anders v. California*, 386 U.S. 738, 744 (1967) (court-appointed counsel who finds appeal to be wholly frivolous should so advise court and request permission to withdraw and file brief referring to anything in record that might arguably

¹ To preserve the parties’ privacy and for convenience, we refer to the child and her mother by their initials or their roles. *See* Tex. Fam. Code § 109.002(d); Tex. R. App. P. 9.8.

support appeal); *In re P.M.*, ___ S.W.3d ___, No. 15-0171, 2016 WL 1274748, at *3 & n.10 (Tex. Apr. 1, 2016) (per curiam) (approving use of *Anders* procedure in appeals from termination of parental rights because it “strikes an important balance between the . . . defendant’s constitutional right to counsel on appeal and counsel’s obligation not to prosecute frivolous appeals” (quoting *In re D.A.S.*, 973 S.W.2d 296, 297 (Tex. 1998)). The brief meets the requirements of *Anders* by presenting a professional evaluation of the record demonstrating that there are no arguable grounds for reversal to be advanced on appeal. See 386 U.S. at 744; *Taylor v. Texas Dep’t of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646-47 (Tex. App.—Austin 2005, pet. denied) (applying *Anders* procedure in parental-termination case). Mother’s counsel has certified to this Court that he provided Mother with a copy of the *Anders* brief and motion to withdraw as counsel and a notice of her right to examine the appellate record and to file a pro se brief. Both the Department and the attorney ad litem on appeal for K.D. filed responses to the *Anders* brief, indicating that they would not file a brief unless they deemed a brief necessary after review of any pro se brief or unless requested to do so by this Court. No pro se brief has been filed.

Upon receiving an *Anders* brief, we must conduct a full examination of all of the proceedings to determine whether the appeal is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988). After reviewing the record and the *Anders* brief submitted on Mother’s behalf, we find nothing in the record that would arguably support an appeal. We agree with Mother’s counsel that

the appeal is frivolous and without merit. Accordingly, we affirm the order terminating Mother's parental rights. We deny counsel's motion to withdraw.²

Cindy Olson Bourland, Justice

Before Chief Justice Rose, Justices Pemberton and Bourland

Affirmed

Filed: May 4, 2016

² See *In re P.M.*, ___ S.W.3d ___, No. 15-0171, 2016 WL 1274748 (Tex. Apr. 1, 2016) (per curiam). In *In re P.M.*, the Texas Supreme Court held that the right to counsel in suits seeking the termination of parental rights extends to "all proceedings in [the Texas Supreme Court], including the filing of a petition for review." *Id.* at *3. Accordingly, counsel's obligation to Mother has not yet been discharged. See *id.* If Mother, after consulting with counsel, desires to file a petition for review, counsel should timely file with the Texas Supreme Court "a petition for review that satisfies the standards for an *Anders* brief." *Id.*