

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-20-00454-CV

D. J. and A. S., Appellants

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE 146TH DISTRICT COURT OF BELL COUNTY
NO. 312,083-B, THE HONORABLE ALAN MAYFIELD, JUDGE PRESIDING**

ORDER AND MEMORANDUM OPINION

PER CURIAM

The appellants, appearing pro se, seek to appeal from the trial court’s judgment terminating A.S.’s parental rights and naming the Department and not the child’s maternal grandmother, D.J., as managing conservator of A.S.’s child. The notice of appeal includes a statement that the appellants are “presumed indigent and may proceed without advance payment of costs.”

On our own motion, we abate this appeal and remand to the trial court for further proceedings. We instruct the trial court to determine as to each appellant whether the appellant wishes to proceed on appeal, whether the appellant is indigent, and whether the appellant is entitled to the appointment of counsel to represent her in this appeal. *See In re M.S.*,

115 S.W.3d 534, 544 (Tex. 2003) (explaining that “[i]n Texas, there is statutory right to counsel for indigent persons in parental-rights termination cases,” (citing Tex. Fam. Code § 107.013)).

The trial court is also directed to hold any hearings it deems necessary to comply with this order and to require appellants, prior to any hearing to determine their indigence, to file an affidavit of indigence in accordance with Rule 145(b) of the Texas Rules of Civil Procedure. *See* Tex. Fam. Code § 107.013(d). Any such hearings shall be recorded and a supplemental reporter’s record containing these hearings shall be filed with the Clerk of this Court on or before October 30, 2020. Should the trial court determine that one or both of the appellants are indigent and entitled to appointment of counsel, the trial court is directed to appoint counsel and provide counsel’s name, address, telephone number, and state bar number to the Clerk of this Court immediately upon appointment. Any orders issued by the trial court, including findings of fact and conclusions of law, shall be included in a supplemental clerk’s record and filed with the Clerk of this Court on or before October 30, 2020.

This appeal shall be reinstated upon the date the supplemental clerk’s record is filed with this Court or thirty days from the date of this order, whichever is later.

It is ordered on October 12, 2020.

Before Chief Justice Rose, Justices Baker and Kelly

Abated and Remanded

Filed: October 12, 2020