

NO. 12-16-00326-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

	§	<i>APPEAL FROM THE</i>
<i>IN THE INTEREST OF T.T.,</i>	§	<i>COUNTY COURT AT LAW NO. 2</i>
<i>A CHILD</i>	§	<i>ANGELINA COUNTY, TEXAS</i>

MEMORANDUM OPINION

M.B. and T.T. appeal the termination of their parental rights. M.B.'s counsel and T.T.'s counsel each filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L.Ed.2d 493 (1967), and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). We affirm.

BACKGROUND

M.B. and T.T. are the parents of T.T.1.¹ On August 10, 2015, the Department of Family and Protective Services (the Department) filed an original petition for protection of the child, for conservatorship, and for termination of M.B.'s and T.T.'s parental rights. The Department was appointed temporary managing conservator of the child.

At the conclusion of the trial on the merits, the trial court found, by clear and convincing evidence, that M.B. had engaged in one or more of the acts or omissions necessary to support termination of her parental rights under subsections (E), (O), and (P) of Texas Family Code Section 161.001(b)(1). The trial court also found that termination of the parent-child relationship between M.B. and T.T.1 is in the child's best interest. Based on these findings, the trial court ordered that the parent-child relationship between M.B. and T.T.1 be terminated.

¹ The initials of the father and the child are the same. Therefore, we will refer to the father as T.T. and to his child as T.T.1.

Further, the trial court found that T.T. was, and adjudicated him to be, the father of T.T.1. The trial court also found, by clear and convincing evidence, that T.T. had engaged in one or more of the acts or omissions necessary to support termination of his parental rights under subsections (E) and (Q) of Texas Family Code Section 161.001(b)(1). The trial court found that termination of the parent-child relationship between T.T. and T.T.1 is in the child's best interest. Based on these findings, the trial court ordered that the parent-child relationship between T.T. and T.T.1 be terminated. This appeal followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

M.B.'s and T.T.'s counsels filed briefs in compliance with *Anders*. Each counsel stated that he diligently reviewed the appellate record and is of the opinion that the record reflects no reversible error and that there is no error upon which an appeal for M.B. and T.T. can be predicated. This court has previously held that *Anders* procedures apply in parental rights termination cases when the Department has moved for termination. See *In re K.S.M.*, 61 S.W.3d 632, 634 (Tex. App.—Tyler 2001, no pet.). In compliance with *Anders*, both counsels' briefs present a professional evaluation of the record demonstrating why there are no reversible grounds on appeal for M.B. and T.T., and referencing any grounds that might arguably support the appeals. See *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *Mays v. State*, 904 S.W.2d 920, 922-23 (Tex. App.—Fort Worth 1995, no pet.).

In our duties as a reviewing court, we must conduct an independent evaluation of the record to determine whether counsels are correct in determining that the appeals are frivolous. See *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991); *Mays*, 904 S.W.2d at 923. We have carefully reviewed the appellate record and counsels' briefs. We find nothing in the record that might arguably support the appeals.² See *Taylor v. Tex. Dep't of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646–47 (Tex. App.—Austin 2005, pet. denied).

² Counsels for M.B. and T.T. each certified that they provided M.B. and T.T. with a copy of counsels' briefs and informed them that they had the right to file their own briefs. M.B. and T.T. were given time to file their own briefs, but the time for filing such briefs has expired and we have received no pro se briefs.

DISPOSITION

We agree with M.B.'s and T.T.'s counsels that the appeals are wholly frivolous. However, we *deny* T.T.'s counsel's request to withdraw. See *In re P.M.*, No. 15-0171, 2016 WL 1274748, at *3 (Tex. Apr. 1, 2016). 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. Therefore, counsels' obligations to M.B. and T.T. have not yet been discharged. See *id.* In accordance with *In re P.M.*, M.B.'s counsel has not moved to withdraw. If M.B. and T.T., after consulting with their counsels, desire to file a petition for review, counsels should timely file with the Texas Supreme Court "a petition for review that satisfies the standards for an *Anders* brief." See *id.*; see also *A.C. v. Tex. Dep't of Family & Protective Servs.*, No. 03-16-00543-CV, 2016 WL 5874880, at *1 n.2 (Tex. App.—Austin Oct. 5, 2016, no pet.) (mem. op.). Accordingly, we *affirm* the trial court's judgment. See TEX. R. APP. P. 43.2.

JAMES T. WORTHEN
Chief Justice

Opinion delivered April 19, 2017.

Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.

(PUBLISH)



COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

APRIL 19, 2017

NO. 12-16-00326-CV

IN THE INTEREST OF T.T., A CHILD

Appeal from the County Court at Law No. 2
of Angelina County, Texas (Tr.Ct.No. CV-00524-15-08)

THIS CAUSE came to be heard on the appellate record and briefs filed herein, and the same being considered, it is the opinion of this court that there was no error in the judgment.

It is therefore ORDERED, ADJUDGED and DECREED that the judgment of the court below **be in all things affirmed**, and that this decision be certified to the court below for observance.

James T. Worthen, Chief Justice.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.