

[Cite as *In re Maupin Children*, 2011-Ohio-317.]

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: MAUPIN CHILDREN	:	APPEAL NO. C-100687
	:	TRIAL NO. F-080209X
	:	
	:	<i>DECISION.</i>

Civil Appeal From: Hamilton County Juvenile Court

Judgment of Court: Motion to Withdraw as Counsel Granted, New Counsel
Appointed, and Further Briefing Ordered

Date of Judgment Entry on Appeal: January 27, 2011

Joseph T. Deters, Hamilton County Prosecuting Attorney, and *Ronald Geers*,
Assistant Prosecuting Attorney, for Appellee Hamilton County Department of Job
and Family Services,

Marcus E. Coleman, for Appellant Sharon Maupin,

Shonita M. Black, Guardian Ad Litem for S.M. and T.T.

J. HOWARD SUNDERMANN, Judge.

{¶1} Appellant Sharon Maupin appeals from the judgment of the Hamilton County Juvenile Court terminating her parental rights and granting permanent custody of her two minor children, S.M and T.T., to the Hamilton County Department of Job and Family Services (“HCJFS”).

{¶2} Maupin’s appointed counsel has filed a no-error brief pursuant to *Anders v. California*.¹ Appellate counsel asserts that, after a thorough review of the record, he can find no issue arguable on the merits to support Maupin’s appeal. Counsel has communicated his conclusion to Maupin, has afforded her the opportunity to respond, and has moved this court for permission to withdraw as counsel. Maupin has not provided counsel with any issues for our review.

{¶3} Appellate counsel now requests that this court, consistent with *Anders*, independently review the record to decide whether the appeal is wholly frivolous.² The record reveals that S.M. and T.T. were placed in the interim custody of HCJFS in January 2008. Shortly thereafter, they were adjudicated dependent and neglected and placed in the temporary custody of HCJFS. In May 2009, HCJFS moved for permanent custody of S.M. and T.T. After several hearings, a magistrate granted HCJFS permanent custody of S.M. and T.T. Both Maupin and S.M.’s father, Clayton Maupin, filed timely objections to the magistrate’s decision with the juvenile court. While the juvenile court ultimately overruled the objections filed by Clayton Maupin and adopted the magistrate’s decision granting permanent custody of S.M. and T.T.

¹ (1967), 386 U.S. 738, 87 S.Ct. 1396; see, also, *In re D.C.*, 1st Dist. No. C-090466, 2009-Ohio-5575.

² See *In re Booker* (July 23, 1999), 1st Dist. No. C-980214.

OHIO FIRST DISTRICT COURT OF APPEALS

to HCJFS, it never ruled on Sharon Maupin's objections as required under Juv.R. 40(D)(4)(d) and Civ.R. 53(D)(4)(d).³

{¶4} Based upon our review of the record and the applicable law , we cannot concur with appellate counsel's conclusion that Maupin's appeal is wholly frivolous because "there remain 'legal points arguable on their merits' to be resolved before this court can fulfill its constitutionally mandated function and affirm, reverse, or modify the judgment of the juvenile court."⁴ Pursuant to *Anders*, upon our finding of "legal points arguable on the merits * * * , [we] must, prior to decision, afford the indigent the assistance of counsel to argue the appeal."⁵

{¶5} Accordingly, we grant counsel's motion to withdraw and strike his brief. We appoint attorney Susannah Meyer, Attorney Registration Number 0083263, to serve as counsel for Maupin and order her to present an assignment of error on whether the juvenile court's failure to rule on Maupin's objections violated Juv.R. 40(D)(4)(d) and Civ.R. 53(E)(4)(d) and resulted in prejudicial error, as well as on any other matter she may discover in a diligent review of the record. We further order Susannah Meyer to file a brief on or before February 14, 2011, and counsel for HCJFS and the children to file a responsive brief on or before March 1, 2011. Oral argument is reset for April 11, 2011 at 9:00 A.M. in Courtroom B.

Judgment accordingly.

HILDEBRANDT, P.J., and FISCHER, J., concur.

Please Note:

The court has recorded its own entry on the date of the release of this decision.

³ See *In re Seldon/Boyd Children*, 1st Dist. Nos. C-070440, C-070441, and C-070481, 2007-Ohio-5123, at ¶10; see, also, *Chan v. Tasr*, 1st Dist. No. C-070275, 2008-Ohio-1439, at ¶8-12; *Zwahlen v. Brown*, 1st Dist. No. C-070263, 2008-Ohio-151, at ¶14 and 20.

⁴ See *In re Booker*, supra, quoting *Anders*, 386 U.S. at 744.

⁵ *Anders*, supra, at 744.