

Opinion filed December 8, 2016



In The

Eleventh Court of Appeals

No. 11-16-00249-CV

IN THE INTEREST OF H.A.B. AND J.B., CHILDREN

**On Appeal from the 29th District Court
Palo Pinto County, Texas
Trial Court Cause No. C46657**

MEMORANDUM OPINION

This is an appeal from an order in which the trial court terminated the parental rights of the parents of H.A.B. and J.B. The children's father filed a notice of appeal. We dismiss the appeal.

The father's court-appointed counsel has filed a motion to withdraw and a supporting brief in which he professionally and conscientiously examines the record and applicable law and concludes that the appeal is frivolous and presents no arguable issues of merit. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967), by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced. *See In re*

Schulman, 252 S.W.3d 403, 406–08 (Tex. Crim. App. 2008); *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. [Panel Op.] 1978). In light of a recent holding by the Texas Supreme Court, however, an *Anders* motion to withdraw “may be premature” if filed in the court of appeals under the circumstances presented in this case. See *In re P.M.*, No. 15-0171, 2016 WL 1274748, at *3 (Tex. Apr. 1, 2016). The court in *P.M.* stated that “appointed counsel’s obligations can be satisfied by filing a petition for review that satisfies the standards for an *Anders* brief.” *Id.*

Counsel provided Appellant with a copy of the brief and the motion to withdraw and informed Appellant of his right to review the record and file a pro se response to counsel’s brief. In compliance with *Kelly v. State*, 436 S.W.3d 313, 318–20 (Tex. Crim. App. 2014), counsel provided Appellant with a motion to file in this court to obtain access to the appellate record. We conclude that Appellant’s counsel has satisfied his duties under *Anders*, *Schulman*, and *Kelly*. We note that Appellant did not file the pro se motion for access to the appellate record. Nor did he file a pro se response to counsel’s *Anders* brief.

Following the procedures outlined in *Anders* and *Schulman*, we have independently reviewed the record, and we agree that the appeal is without merit and should be dismissed. See *Schulman*, 252 S.W.3d at 409. However, in light of *P.M.*, we deny the motion to withdraw that was filed by Appellant’s court-appointed counsel. See *P.M.*, 2016 WL 1274748, at *3.

Counsel’s motion to withdraw is denied, and the appeal is dismissed.

PER CURIAM

December 8, 2016

Panel consists of: Wright, C.J.,
Willson, J., and Bailey, J.