

Opinion filed March 14, 2019



In The  
**Eleventh Court of Appeals**

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No. 11-18-00264-CV

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**IN THE INTEREST OF B.W.H., A CHILD**

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**On Appeal from the 29th District Court  
Palo Pinto County, Texas  
Trial Court Cause No. C47625**

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**MEMORANDUM OPINION**

This is an appeal from a final order in which the trial court terminated the parental rights of B.W.H.'s mother and father. *See* TEX. FAM. CODE ANN. § 161.001 (West Supp. 2018). The father filed a notice of appeal. We affirm.

Appellant'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 without 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.*, 520 S.W.3d 24, 27 (Tex. 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.* at 27–28.

Appellant’s counsel provided Appellant with a copy of the brief and the motion to withdraw. Counsel also 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 pro se motion for access to the appellate record. We conclude that Appellant’s counsel has satisfied his duties under *Anders*, *Schulman*, and *Kelly*.

We note that Appellant has not filed a pro se response to counsel’s *Anders* brief. Following the procedures outlined in *Anders* and *Schulman*, we have independently reviewed the record in this cause, and we agree that the appeal is frivolous. However, in light of *P.M.*, we must deny the motion to withdraw that was filed by the father’s court-appointed counsel. *See P.M.*, 520 S.W.3d at 27.

Accordingly, we deny the motion to withdraw as counsel, and we affirm the trial court’s order of termination.

PER CURIAM

March 14, 2019

Panel consists of: Bailey, C.J.,  
Stretcher, J., and Wright, S.C.J.<sup>1</sup>

Willson, J., not participating.

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<sup>1</sup>Jim R. Wright, Senior Chief Justice (Retired), Court of Appeals, 11th District of Texas at Eastland, sitting by assignment.