

**AFFIRM; and Opinion Filed January 25, 2016.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-15-01220-CV**

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**IN THE INTEREST OF N.A., A CHILD**

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**On Appeal from the 305th Judicial District Court  
Dallas County, Texas  
Trial Court Cause No. JD-14-01218-X**

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**MEMORANDUM OPINION**

Before Chief Justice Wright, Justice Fillmore, and Justice Stoddart  
Opinion by Justice Fillmore

Mother appeals the trial court's order terminating her parental rights to her child, N.A. Mother's appointed counsel filed a motion to withdraw, along with an *Anders* brief asserting the appeal is without merit and there are no arguable grounds for reversal. *See Anders v. California*, 386 U.S. 738 (1967). We affirm the trial court's judgment and grant counsel's motion to withdraw.

The procedures set forth in *Anders* are applicable to an appeal from a trial court's order terminating parental rights when, as here, appellant's appointed counsel concludes there are no non-frivolous issues to assert on appeal. *See In re D.D.*, 279 S.W.3d 849, 849–50 (Tex. App.—Dallas 2009, pet. denied); *In re D.E.S.*, 135 S.W.3d 326, 329 (Tex. App.—Houston [14th Dist.] 2004, no pet.); *In re K.D.*, 127 S.W.3d 66, 67 (Tex. App.—Houston [1st Dist.] 2003, no pet.). A court of appeals is not required to address the merits of each claim raised in an *Anders* brief or a

pro se response. *See Bledsoe v. State*, 178 S.W.3d 824, 827 (Tex. Crim. App. 2005); *In re D.D.*, 279 S.W.3d at 850 (citing *Bledsoe*, 178 S.W.3d at 827). Rather, this Court's duty is to determine whether there are any arguable grounds for reversal and, if so, to remand the case to the trial court so that new counsel may be appointed to address the issues. *See In re D.D.*, 279 S.W.3d at 850.

On October 31, 2014, the Texas Department of Family and Protective Services (TDFPS) filed a petition seeking to terminate Mother's parent-child relationship with N.A. The trial court signed a November 3, 2014 emergency order appointing TDFPS as managing conservator of N.A. On December 1, 2014, the trial court signed a temporary order appointing TDFPS as temporary managing conservator of N.A., and ordering Mother to participate in various services: parenting classes, psychiatric and psychological evaluations, counseling, drug/alcohol treatment, random drug and alcohol urinalysis/hair strand tests, and to follow through with recommendations made by any of those service providers as arranged and paid for by TDFPS. Following a December 30, 2014 status hearing, the trial court found Mother's service plan filed by TDFPS had been reviewed and understood by Mother, and Mother had been advised that unless she is willing and able to provide the child a safe environment within the reasonable period specified in the service plan, her parental and custodial duties and rights may be subject to restriction or termination.

Mother did not appear for the September 15, 2015 final hearing, but she was represented by her attorney. At the hearing, a Child Protective Services caseworker affirmed that the issues that led to the child's coming into TDFPS's care were methamphetamine use by Mother and family violence between Mother and the child's alleged father. The caseworker testified Mother failed to comply with provisions of the trial court's temporary order and that termination of

Mother's parental rights was in the child's best interest.<sup>1</sup> On September 28, 2015, the trial court signed a final order terminating Mother's parental rights. The trial court found by clear and convincing evidence that:

[M]other of the [child] has failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of [TDFPS] for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child, which is a violation of the Texas Family Code Section 161.001(1)(O), and is grounds for termination of her parental rights.

*See* TEX. FAM. CODE ANN. § 161.001(b)(1)(O) (West Supp. 2015).<sup>2</sup> The trial court further found by clear and convincing evidence that termination of the parent-child relationship between Mother and the child was in the best interest of the child. *Id.* § 161.001(b)(2).

Counsel for Mother filed an *Anders* brief in which he presents his professional evaluation of the record demonstrating why there are no arguable grounds for reversal and concluding the Mother's appeal of the termination of her parental rights is frivolous and without merit. *See Anders*, 386 U.S. at 744; *In re D.E.S.*, 135 S.W.3d at 327, 330; *In re K.D.*, 127 S.W.3d at 67. In counsel's brief, he states he provided Mother a copy of his brief and informed Mother of her right to examine the appellate record and to file a pro se response. Counsel also attached to his motion to withdraw a copy of his correspondence to Mother, forwarded by regular and certified mail, return receipt requested, advising Mother of her right to review the appellate record and to

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<sup>1</sup> Although the caseworker testified a mediated settlement agreement had been reached with regard to "some agreements to terminate mother on [family code section 161.001(b)(1)(O)] grounds," the record contains no mediated settlement agreement accepted by the trial court.

<sup>2</sup> Effective September 1, 2015, family code section 161.001(1)(O) became section 161.001(b)(1)(O). There was no substantive change in that provision of the statute. Therefore, we cite to section 161.001(b)(1)(O) as effective the date the trial court signed the final order terminating Mother's parental rights to the child. Sections 161.001(b)(1)(O) & (b)(2) provide the court may order termination of the parent-child relationship if the court finds by clear and convincing evidence that termination is in the best interest of the child and the parent has:

failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of [TDFPS] for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child[.]

*See* TEX. FAM. CODE ANN. § 161.001(b)(1)(O) & (b)(2) (West Supp. 2015).

file a pro se appellate brief, and noting that he had enclosed copies of his brief and his motion to withdraw. *See In re D.D.*, 279 S.W.3d at 850. This Court sent correspondence to Mother forwarding a copy of her counsel's brief, as well as advising her she had the right to review the appellate record and file a pro se response. Mother filed a pro se response. Although she states in her response that she does not agree with her attorney's "findings" in his brief filed with this Court, she does not contest the trial court's final judgment or the trial court's findings.

We independently reviewed the entire record and counsel's *Anders* brief. *See Bledsoe*, 178 S.W.3d at 827. We agree the appeal is frivolous and without merit. We find nothing in the record that could arguably support the appeal. Accordingly, we affirm the trial court's final order terminating Mother's parental rights to her child, N.A., and grant counsel's motion to withdraw. *See In re D.D.*, 279 S.W.3d at 850.

/Robert M. Fillmore/  
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ROBERT M. FILLMORE  
JUSTICE

151220F.P05



**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

IN THE INTEREST OF N.A., A CHILD

No. 05-15-01220-CV

On Appeal from the 305th Judicial District  
Court, Dallas County, Texas,  
Trial Court Cause No. JD-14-01218-X.  
Opinion delivered by Justice Fillmore, Chief  
Justice Wright and Justice Stoddart  
participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is  
**AFFIRMED.**

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered this 25th day of January, 2016.