

Court of Appeals
Fourth Court of Appeals District of Texas
San Antonio



MEMORANDUM OPINION

No. 04-12-00138-CV

IN THE INTEREST OF N.D., A Child

From the 438th Judicial District Court, Bexar County, Texas
Trial Court No. 2011-PA-00407
Honorable Charles E. Montemayor, Judge Presiding¹

Opinion by: Marialyn Barnard, Justice

Sitting: Karen Angelini, Justice
Phylis J. Speedlin, Justice
Marialyn Barnard, Justice

Delivered and Filed: July 18, 2012

MOTION TO WITHDRAW GRANTED; AFFIRMED

Appellant father, S.D., appeals the trial court's judgment terminating his parental rights to N.D. The Texas Department of Family and Protective Services ("the Department") moved to have appellant's parental rights terminated on a variety of grounds. *See* TEX. FAM. CODE ANN. §§ 161.001(1)(A)-(K), (M)-(Q), (S); 161.003(a) (West 2008 & Supp. 2010). After a bench trial, the trial court found appellant's parental rights should be terminated because he: (1) constructively abandoned N.D.; (2) failed to comply with the provision of a court order that established the actions necessary for him to obtain the return of N.D.; and (3) knowingly engaged in criminal conduct that resulted in his conviction for an offense and confinement or

¹ The Honorable Victor H. Negron Jr. is the presiding judge of the 438th Judicial District Court of Bexar County, Texas. The termination order was signed by Associate Judge Charles E. Montemayor.

imprisonment and an inability to care for N.D. for not less than two years from the date the Department filed its petition. *See* TEX. FAM. CODE ANN. §§ 161.001(1)(N), (O), (Q). The trial court also determined termination would be in the best interest of the child. *Id.* § 161.001(2).

Appellant's court-appointed appellate attorney has filed a motion to withdraw and a brief containing a professional evaluation of the record demonstrating there are no arguable grounds to be advanced and concluding the appeal is frivolous. The brief meets the requirements of *Anders v. California*, 386 U.S. 738 (1967). *See In re R.R.*, No. 04-03-00096-CV, 2003 WL 21157944, *4 (Tex. App.—San Antonio May 21, 2003, order) (applying *Anders* procedure to appeals from orders terminating parental rights), *disp. on merits*, 2003 WL 22080522 (Tex. App.—San Antonio Sept. 10, 2003, no pet.) (mem. op.). Appellant was provided a copy of the brief and informed of his right to file his own brief. *See Nichols v. State*, 954 S.W.2d 83, 85-86 (Tex. App.—San Antonio July 23, 1997, no pet.); *In re R.R.*, 2003 WL 21157944, at *4. Appellant did not file a *pro se* brief.

We have reviewed the record and the attorney's brief and we agree with counsel that the appellate points do not present a substantial question for appellate review. Accordingly, we hold the trial court did not err in terminating appellant's parental rights. We grant the motion to withdraw and affirm the trial court's judgment.

Marialyn Barnard, Justice