

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



MEMORANDUM OPINION

No. 04-12-00369-CV

IN THE INTEREST OF L.M.H., a Child

From the 45th Judicial District Court, Bexar County, Texas
Trial Court No. 2010-PA-02099
Honorable Charles E. Montemayor, Judge Presiding¹

Opinion by: Marialyn Barnard, Justice

Sitting: Catherine Stone, Chief Justice
Santee Bryan Marion, Justice
Marialyn Barnard, Justice

Delivered and Filed: October 3, 2012

MOTION TO WITHDRAW GRANTED; AFFIRMED

Appellant father, J.P., appeals the trial court's judgment terminating his parental rights to L.M.H. 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)-(F), (H), (M)-(Q) (West Supp. 2012). After a bench trial, the trial court found appellant's parental rights should be terminated because he: (1) constructively abandoned L.M.H., and (2) failed to comply with the provision of a court order that established the actions necessary for him to obtain the return of L.M.H. *See id.* §§ 161.001(1)(N), (O). The trial court also determined termination would be in the best interest of the child. *See id.* § 161.001(2).

¹ The Honorable Barbara Nellermoe is the presiding judge of the 45th Judicial District Court of Bexar County, Texas. The order of termination was signed by Associate Judge Charles E. Montemayor.

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