



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-16-00316-CV

IN THE INTEREST OF D.T., Z.T.,
AND M.T., CHILDREN

FROM THE 323RD DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. 323-101377-15

MEMORANDUM OPINION¹

Appellant B.T. (Father) appeals the trial court's final order terminating his parental rights to D.T., Z.T., and M.T. (the children). See Tex. Fam. Code Ann. § 161.001(b) (West Supp. 2016). The trial court found by clear and convincing evidence that Father's actions satisfied the grounds listed in family code section

¹See Tex. R. App. P. 47.4.

161.001(b)(1)(D), (E), (N), and (O) and alleged in the petition for termination and that termination of Father's parental rights was in the children's best interests. See *id.* § 161.001(b)(1)(D), (E), (N), (O) & (b)(2).²

On October 28, 2016, Father's appellate counsel filed a motion to withdraw as counsel and a brief in support of that motion. Counsel states that he has conducted a professional evaluation of the record and, after a thorough review of the applicable law, has reached the conclusion that there are no arguable grounds to be advanced to support an appeal of this cause and that the appeal is frivolous.

Counsel's brief and motion present the required professional evaluation of the record demonstrating why there are no reversible grounds on appeal and referencing any grounds that might arguably support the appeal. See *Anders v. California*, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400 (1967); see also *In re K.M.*, 98 S.W.3d 774, 776–77 (Tex. App.—Fort Worth 2003, order) (holding *Anders* procedures apply in parental-termination cases), *disp. on merits*, No. 2-01-349-CV, 2003 WL 2006583 (Tex. App.—Fort Worth May 1, 2003, no pet.) (mem. op.). Further, counsel informed Father of his right to request the record and to file a

²The numbering of section 161.001 was changed effective September 1, 2015. See Act of May 29, 2015, 84th Leg., R.S., ch. 944, § 11, sec. 161.001, 2015 Tex. Sess. Law Serv. 3268, 3271–73 (West) (codified at Tex. Fam. Code Ann. § 161.001). Because the substance of the grounds for termination previously codified as section 161.001(1) was not changed, we cite to the current version of the statute. See, e.g., *In re N.A.*, No. 05-15-01220-CV, 2016 WL 297414, at *2 n.2 (Tex. App.—Dallas Jan. 25, 2016, no pet.) (mem. op.).

pro se brief. See *Kelly v. State*, 436 S.W.3d 313, 318–20 (Tex. Crim. App. 2014). This court also informed Father of these rights and gave him until November 14, 2016, to notify this court of his intent to respond. See *id.* Father has not responded. Additionally, the Department of Family and Protective Services informed this court that it will not respond to counsel’s motion to withdraw.

In reviewing an *Anders* brief, we are to independently determine whether there are any arguable grounds for reversal and, thus, whether counsel was correct in determining that the appeal is frivolous. See *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991); *K.M.*, 2003 WL 2006583, at *2; *In re AWT*, 61 S.W.3d 87, 89 (Tex. App.—Amarillo 2001, no pet.). Our review of the record reveals that Father had notice of the grounds alleged for terminating his parental rights and had an opportunity to defend against those grounds through the use of counsel, the presentation of evidence, and the cross-examination of adverse witnesses. Further, the evidence admitted at trial legally and factually supported the trial court’s findings that (1) Father’s actions satisfied at least one ground listed in section 161.001(b)(1) and alleged in the petition for termination and (2) termination of Father’s parental rights was in the children’s best interests under section 161.001(b)(2). See generally *In re A.B.*, 437 S.W.3d 498, 503 (Tex. 2014) (recognizing appellate court need not detail the evidence if affirming termination judgment). These findings were based on credibility and weight-of-the-evidence choices that we may not second-guess. See *In re*

H.R.M., 209 S.W.3d 105, 108 (Tex. 2006); *In re J.P.B.*, 180 S.W.3d 570, 573–74 (Tex. 2005); *In re L.M.I.*, 119 S.W.3d 707, 712 (Tex. 2003), *cert. denied*, 541 U.S. 1043 (2004).

We find nothing in the record that might arguably support Father’s appeal; thus, we affirm the trial court’s final order of termination. However, we deny counsel’s motion to withdraw as he has failed to show the requisite good cause separate and apart from his accurate determination that there are no arguable grounds for appeal. See *In re P.M.*, No. 15-0171, 2016 WL 1274748, at *3 (Tex. Apr. 1, 2016).

/s/ Lee Gabriel

LEE GABRIEL
JUSTICE

PANEL: LIVINGSTON, C.J.; GABRIEL and SUDDERTH, JJ.

DELIVERED: December 13, 2016