



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

NO. 02-17-00082-CV

IN THE INTEREST OF L.N. AND
F.N., CHILDREN

FROM COUNTY COURT AT LAW NO. 2 OF PARKER COUNTY
TRIAL COURT NO. CIV-15-0150

MEMORANDUM OPINION¹

Appellant Father appeals the trial court's order terminating his parental rights to his daughter L.N. and his son F.N. After a five-day jury trial, during which evidence was presented that Father had used cocaine on two occasions after the children were returned to him on a monitored return, the jury found by clear and convincing evidence that Father's actions satisfied the grounds listed in

¹See Tex. R. App. P. 47.4.

Texas Family Code section 161.001(b)(1)(D), (E), (O), and (P) as alleged in the petition for termination and that termination of Father's parental rights was in L.N.'s and F.N.'s best interest, and the trial court incorporated the jury's findings into its final order of termination. See Tex. Fam. Code Ann. § 161.001(b)(1)(D), (E), (O), (P), (2) (West Supp. 2016). 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).

Father's court-appointed appellate counsel has filed a motion to withdraw as counsel and a brief in support of that motion. In the motion, counsel avers 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. Father was given the opportunity to file a pro se response to the *Anders* brief, and he did so. The Department of Family and Protective Services did not file a response.

Counsel's brief and motion meet the requirements of *Anders v. California* by presenting a 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 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, no pet.) (holding *Anders* procedures apply in parental-rights termination

cases), *disp. on merits*, No. 02-01-00349-CV, 2003 WL 2006583 (Tex. App.—Fort Worth May 1, 2003, no pet.) (mem. op.).

In reviewing an *Anders* brief, this court is not required to review the merits of each claim raised in the brief or in a pro se response. *Cf. Bledsoe v. State*, 178 S.W.3d 824, 827 (Tex. Crim. App. 2005). Rather, this court's duty is to determine whether there are any arguable grounds for reversal and, if there are, to remand the case to the trial court so that new counsel may be appointed to brief the issues. *Id.* Thus, we conduct an independent evaluation of the record to determine whether counsel is correct in determining that the appeal is frivolous. *Cf. Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991); see also *K.M.*, 2003 WL 2006583, at *2.

We have carefully reviewed the appellate record, appellate counsel's brief, and Father's pro se brief. We agree with appellate counsel that the appeal is wholly frivolous and without merit. We find nothing in the record that might arguably support Father's appeal. *Cf. Bledsoe*, 178 S.W.3d at 827; see also *In re D.D.*, 279 S.W.3d 849, 850 (Tex. App.—Dallas 2009, pet. denied). Therefore, we affirm the trial court's judgment terminating Father's parental rights to L.N. and F.N.

However, we deny the motion to withdraw filed by Father's counsel in light of *In re P.M.* because it does not show "good cause" other than counsel's determination that an appeal would be frivolous. See No. 15-0171, 2016 WL 1274748, at *3–4 (Tex. Apr. 1, 2016) ("[A]n *Anders* motion to withdraw brought in

the court of appeals, in the absence of additional grounds for withdrawal, may be premature.”); see also *In re C.J.*, 501 S.W.3d 254, 255 (Tex. App.—Fort Worth 2016, pets. denied) (denying a motion for withdrawal in light of *P.M.* where it did not show “good cause” other than counsels’ determination that an appeal would be frivolous); *In re A.M.*, 495 S.W.3d 573, 582 & n.2 (Tex. App.—Houston [1st Dist.] 2016, pets. denied) (noting that since *P.M.* was handed down, “most courts of appeals affirming parental termination orders after receiving *Anders* briefs have denied the attorney’s motion to withdraw”). The supreme court has held that in cases such as this, “appointed counsel’s obligations [in the supreme court] can be satisfied by filing a petition for review that satisfies the standards for an *Anders* brief.” *P.M.*, 2016 WL 1274748, at *3. Accordingly, we deny the motion to withdraw filed by Father’s counsel in light of *P.M.*, 2016 WL 1274748, at *3–4.

PER CURIAM

PANEL: WALKER, GABRIEL, and SUDDERTH, JJ.

DELIVERED: June 30, 2017