



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-20-00074-CV

In the Interest of J.G. and J.G., Children

On Appeal from the 323rd District Court
Tarrant County, Texas
Trial Court No. 323-103409-16

Before Gabriel, Kerr, and Birdwell, JJ.
Memorandum Opinion by Justice Gabriel

MEMORANDUM OPINION

Appellant J.G. (Father) appeals the trial court's final order terminating his parental rights to J.G. (Jennifer) and J.G. (Johnny). *See* Tex. Fam. Code Ann. §§ 161.001(b), 161.004.

After appellee Texas Department of Family and Protective Services (the Department) filed a Third Amended Petition for Protection of a Child, for Conservatorship, and for Termination in Suit Affecting the Parent–Child Relationship, Jennifer and Johnny's foster parents intervened and filed an Original Petition for Termination. The trial court conducted a final trial on the foster parents' and the Department's petitions and denied both in a January 4, 2018 Final Order in Suit Affecting the Parent–Child Relationship. The trial court found by clear and convincing evidence that Father's conduct satisfied the termination grounds listed in Family Code Section 161.001(b)(1)(D) and (E) but that termination of the parent–child relationship between Father and the children was not in the children's best interest. *See id.* § 161.001(b)(1)(D)–(E), (2). The trial court appointed the Department as permanent managing conservator of the children and dismissed the foster parents from the suit.

Over sixteen months later, the Department again filed a Petition for Termination in a Suit Affecting the Parent–Child Relationship. The Petition alleged that termination was being sought under Family Code Section 161.001 and

additionally under Section 161.004, which provides for termination after a prior order denying termination. *See id.* §§ 161.001(b), 161.004(a). After a final hearing, the trial court relied upon its previous findings in the January 4, 2018 order that there had been clear and convincing evidence presented that Father had violated Family Code Section 161.001(b)(1)(D) and (E). *See id.* § 161.001(b)(1)(D)–(E). The trial court found “that the circumstances of the children, parent, sole managing conservator, possessory conservator, or other party affected by the prior order have materially and substantially changed since the prior order was rendered.” Further, the trial court found by clear and convincing evidence that termination of Father’s parental rights was in the children’s best interest. *See id.* § 161.001(b)(2). Accordingly, the trial court ordered the termination of Father’s parental rights to the children and continued the Department as their permanent managing conservator. Father appealed the order.¹

On April 6, 2020, Father’s appointed appellate counsel filed a brief and corresponding motion to withdraw, stating that he has conducted a professional evaluation of the record and has concluded that there are no arguable grounds to be advanced to support an appeal of the trial court’s termination order and that the appeal is frivolous. Counsel’s brief presents the required professional evaluation of the record demonstrating why there are no reversible grounds on appeal. *See Anders v. California*, 386 U.S. 738, 744 (1967); *see also In re K.M.*, 98 S.W.3d 774, 776-77 (Tex.

¹The parental rights of A.M., the children’s mother, were also terminated in the same trial court order. A.M. has not appealed that termination order.

App.—Fort Worth 2003, order) (holding *Anders* procedures apply in cases involving termination of parental rights), *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 pro se response. *See Kelly v. State*, 436 S.W.3d 313, 318–20 (Tex. Crim. App. 2014). Father has not filed a response. The Department has notified this court that it agrees with Father’s counsel that there are no meritorious grounds upon which to advance an appeal in this case.

In reviewing a brief that asserts an appeal is frivolous and that fulfills the requirement of *Anders*, this court is obligated to undertake an independent examination of the record to determine if any arguable grounds for appeal exist. *See In re C.J.*, 501 S.W.3d 254, 255 (Tex. App.—Fort Worth 2016, pets. denied) (citing *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991)). Having carefully reviewed the record and the *Anders* brief, we conclude that there are no arguable grounds for reversal; thus, we agree with counsel that Father’s appeal is without merit. *See In re D.D.*, 279 S.W.3d 849, 850 (Tex. App.—Dallas 2009, pet. denied). Accordingly, we affirm the trial court’s order of termination. *See Tex. R. App. P. 43.2(a)*.

We deny counsel’s motion to withdraw because counsel has not shown “good cause” other than his determination that an appeal would be frivolous. *See In re P.M.*, 520 S.W.3d 24, 27 (Tex. 2016) (per curiam) (“[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 A.M.* 495 S.W.3d 573, 582–83 & 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 Texas 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.*, 520 S.W.3d at 27–28.

/s/ Lee Gabriel

Lee Gabriel
Justice

Delivered: June 11, 2020