

NO. 07-07-0042-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL A
JUNE 23, 2009

IN THE INTEREST OF J.O.A., T.J.A.M., T.J.M., and C.T.M., CHILDREN

FROM THE 100TH DISTRICT COURT OF COLLINGSWORTH COUNTY;
NO. 7019; HONORABLE PHIL VANDERPOOL, JUDGE

Before CAMPBELL and HANCOCK and PIRTLE, JJ.

ON REMAND FROM THE SUPREME COURT OF TEXAS

By our opinion dated February 25, 2008,¹ we held, in part, that the evidence supporting the termination of Timothy's parental rights to T.J.M. and C.T.M. was both

¹See *In re J.O.A.*, 262 S.W.3d 7 (Tex.App.—Amarillo 2008, *aff'd as modified and remanded*, 2009 WL 1165303, (Tex. May 1, 2009)) for the factual background and designation of parties.

legally and factually insufficient. 262 S.W.3d at 24. Accordingly, we concluded that judgment should be rendered against the Department on the issue of termination of Timothy's parental rights as to T.J.M. and C.T.M., and remanded for purposes of determining Timothy's rights, privileges and duties with respect to those children.

Without disturbing our finding of factual insufficiency, the Texas Supreme Court has concluded that our finding of legal insufficiency was in error. *In re J.O.A.*, ___ S.W.3d ___, 52 Tex. Sup. Ct. J. 714; No. 08-0379, 2009 WL 1165303, at *7 (Tex. May 1, 2009). Because a remand is the appropriate judgment when evidence is found to have been legally sufficient, but factually insufficient, we withdraw that portion of our prior opinion pertaining to legal insufficiency and withdraw our judgment of February 25, 2008, and issue judgment this date in lieu thereof. Accordingly, this cause is remanded to the trial court for further proceedings on the issue of Timothy's parental rights. In all other respects, our prior opinion remains unchanged.

Patrick A. Pirtle
Justice