In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-17-00069-CV

IN THE INTEREST OF C.J.B., A CHILD

On Appeal from the 316th District Court
Hutchinson County, Texas
Trial Court No. 40,782, Honorable William D. Smith, Presiding

June 28, 2017

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

K.J.B., father of C.J.B., appeals the order terminating his parental rights. Through eight issues, he contends that the evidence is legally and factually insufficient to support the eight grounds for termination found by the trial court. He does not challenge the sufficiency of the evidence to support the finding that termination is in the best interests of the child, though. We affirm.

Issue – Sufficiency to Support Termination

The trial court found the evidence to be clear and convincing on grounds D, E, F, I, N, O, P, and Q of the Texas Family Code. We need only find that one ground was sufficiently supported by the evidence to affirm the termination of K.J.B.'s parental

rights. *In re A.V.*, 113 S.W.3d 355, 362 (Tex. 2003). Furthermore, the standard by which we review the order is that discussed in *In re C.H.*, 89 S.W.3d 17, 25-26 (Tex. 2002), and *In re B.P.*, No. 07-14-00037-CV, 2014 Tex. App. LEXIS 8127 (Tex. App.—Amarillo July 25, 2014, pet. denied) (mem. op.).

Here, we conclude that the evidence supported termination under § 161.001(b)(1)(N) of the Family Code. Per the latter, termination may occur when a parent constructively abandons a child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services (Department) for not less than six months. TEX. FAM. CODE ANN. § 161.001(b)(1)(N) (West Supp. 2016). It must also be shown that 1) the Department made reasonable efforts to return the child to the parent; 2) the parent failed to regularly visit or maintain significant contact with the child; and 3) the parent demonstrated an inability to provide the child with a safe environment. *Id.* § 161.001(b)(1)(N)(i), (ii) & (iii); *In re M.R.J.M.*, 280 S.W.3d 494, 505 (Tex. App.—Fort Worth 2009, no pet.).

Evidence appears of record demonstrating that K.J.B. 1) was released from prison approximately twenty months before the termination hearing, 2) failed to maintain consistent contact with the Department once he moved back to the area after leaving prison, 3) wrote letters and sent cards to the child while imprisoned, 4) sent only one card to the child since leaving prison, 5) did not know of the child's special needs,[1] 6) last saw the child when the child was ten months old, which child was four years old at the time of the hearing, 7) failed to provide current contact information to the Department, 8) failed to complete the service plan assigned him, 9) was required to

[1]The child suffered from ADHD and was on medication for it. He also had "aggression issues." These matters required an above average time commitment from his foster parents.

complete the service plan as a condition of his visiting the child, 10) knew he had to complete his service plan to secure visitation, 11) failed to provide the Department with proof of employment, 12) had a history of taking controlled substances, 13) did not attend individual counseling or AA or NA meetings despite his history of drug usage, 14) engaged in domestic violence against the child's mother, 15) could not provide a safe and secure environment, 16) failed to submit to drug screening as required, 17) admitted to one of the child's foster parents that he could not pass a drug screening test due to marijuana usage, 18) had not provided any financial support for the child, and 19) had constructively abandoned the child. Other evidence of record discloses that 1) past behavior is predictive of future behavior, 2) a parent cannot provide a safe and secure environment while in prison, 3) the Department feared K.J.B. returning to prison due to his drug usage, 4) the child was born in May of 2012, and 5) the Department had been permanent managing conservator of the child since September 2014.

Based on the foregoing and giving due deference to the trial court's ruling and in light of the entire record, we conclude that the trial court could have formed a firm belief or conviction that sufficient evidence established each element of § 161.001(b)(1)(N) and, thus, K.J.B. constructively abandoned C.J.B. The evidence may have been contradictory but the contradictions were for the fact-finder to resolve. And, while K.J.B. may not have been allowed visitation until he fulfilled his service plan, that did not prevent him from communicating with the child through other means or financially supporting the child in some way.

The evidence is both legally and factually sufficient to support termination under § 161.001(b)(1)(N). Accordingly, we affirm the judgment of the trial court.

Brian Quinn
Chief Justice