



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-19-00076-CV

IN THE INTEREST OF E.X.H. AND S.M.H., CHILDREN

On Appeal from the 100th District Court
Carson County, Texas
Trial Court No. 11978, Honorable Stuart Messer, Presiding

February 21, 2019

ORDER OF ABATEMENT AND REMAND

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

J.H. appealed from an order terminating his parental rights to E.X.H. and S.M.H. The appellate record has been filed. Furthermore, the extended deadline by which he had to file an appellate brief lapsed without him filing the document. Consequently, we abate this appeal and remand the cause to the 100th District Court of Carson County (trial court) for further proceedings. Upon remand, the trial court shall determine the following:

1. whether appellant still desires to prosecute the appeal;
2. whether appellant is indigent;
3. whether appellant has been denied the effective assistance of counsel due to counsel's failure to timely file an appellate brief, see *Ex parte Briggs*, 187 S.W.3d 458, 467 (Tex. Crim. App. 2005) (holding that "a reasonably competent attorney—regardless of whether he is retained or appointed—

must seek to advance his client's best defense in a reasonably competent manner"); and

4. whether new counsel should be appointed.

The trial court is also directed to enter such orders necessary to address the aforementioned questions. So too shall it include its findings on those matters in a supplemental record and cause that record to be filed with this court by March 1, 2019, due to the time-sensitive nature of appeals from parental termination orders. If it is determined that appellant desires to proceed with the appeal, is indigent, and has been denied the effective assistance of counsel, the trial court may appoint him new counsel; the name, address, email address, and phone number of any new counsel appointed shall be included in the aforementioned findings. Should further time be needed to perform these tasks, then same must be requested before March 1, 2019.

It is so ordered.

Per Curiam