



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

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No. 07-20-00207-CV

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**IN THE INTEREST OF N.E.R, A CHILD**

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On Appeal from the County Court at Law No. 2  
Randall County, Texas  
Trial Court No. 77,830-L2, Honorable Matthew Martindale, Presiding

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October 1, 2020

**ORDER OF ABATEMENT AND REMAND**

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

Appellant, Mother,<sup>1</sup> appearing pro se, appeals from the trial court's *Order of Termination of Parent-Child Relationship and Granting Adoption of Child*. Now pending before this Court is Mother's request for appointment of counsel to represent her in this appeal. We remand the cause to the trial court for further proceedings.

In March 2020, Appellee, Maternal Grandmother, filed a petition to terminate the parent-child relationship between Mother and N.E.R., a child, and for adoption of N.E.R. Mother filed a general appearance, pro se, but did not appear at the final hearing. On

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<sup>1</sup> To protect the privacy of the parties involved, we will refer to the appellant as "Mother," to the appellee as "Maternal Grandmother," and to the child by his initials. See TEX. FAM. CODE ANN. § 109.002(d) (West Supp. 2020); TEX. R. APP. P. 9.8(b).

August 12, 2020, the trial court signed an order terminating Mother's parental rights and granting the adoption of N.E.R. to Maternal Grandmother. Mother appealed and now requests appointment of appellate counsel.

Under Section 107.021(a) of the Family Code, a trial court may appoint an attorney ad litem in a suit, not filed by a governmental entity, in which the best interests of a child are at issue. TEX. FAM. CODE ANN. § 107.021(a), (b) (West 2019) (outlining the considerations in determining whether to appoint counsel). See also TEX. FAM. CODE ANN. § 107.013 (requiring mandatory appointment of counsel in suits filed by a governmental entity for termination or conservatorship). In a suit requesting termination of the parent-child relationship that is not filed by a governmental entity, the trial court must appoint an attorney ad litem unless the court finds that the interests of the child will be represented adequately by a party to the suit whose interests are not in conflict with the child's interests. TEX. FAM. CODE ANN. § 107.021(a-1).

Here, the suit to terminate Mother's parental rights filed by Maternal Grandmother places the best interests of the child at issue. See TEX. FAM. CODE ANN. § 161.001(b)(2) (West Supp. 2020). Accordingly, we abate this appeal and remand the cause to the trial court to determine whether to appoint an attorney ad litem to represent Mother on appeal pursuant to Section 107.021 of the Family Code. See *In re A.G.D.*, No. 07-15-00201-CV, 2015 Tex. App. LEXIS 6072, at \*1-2 (Tex. App.—Amarillo June 16, 2015, order) (per curiam) (remanding for trial court to determine whether to appoint appellate counsel under 107.021). Upon remand, the trial court shall utilize whatever means it finds necessary to determine (1) whether Mother is indigent, and (2) whether counsel should be appointed to represent Mother on appeal.

The trial court shall issue findings of fact and conclusions of law addressing the foregoing subjects. Should the trial court appoint appellate counsel, the name, address, email address, telephone number, and state bar number of appointed counsel shall be provided in an order of the trial court. A supplemental clerk's record containing the findings of fact and conclusions of law and any orders issued shall be filed with the Clerk of this Court on or before October 12, 2020.

It is so ordered.

Per Curiam