



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

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No. 07-22-00097-CV

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**IN THE INTEREST OF T.N., K.N., AND A.N., CHILDREN**

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On Appeal from the 72nd District Court  
Crosby County, Texas  
Trial Court No. 2019-8241, Honorable William C. Sowder, Presiding

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August 25, 2022

**MEMORANDUM OPINION**

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

Appellant, M.N., appeals the trial court's order terminating his parental rights to his children, T.N., K.N., and A.N.,<sup>1</sup> which was based on a jury verdict. In presenting this appeal, appointed counsel has filed an *Anders*<sup>2</sup> brief in support of a motion to withdraw. We affirm but defer ruling on counsel's motion to withdraw.

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<sup>1</sup> To protect the privacy of the parent and his children, we refer to them by their initials. See TEX. FAM. CODE ANN. § 109.002(d); see also TEX. R. APP. P. 9.8(b). C.M. entered into an agreement with the Texas Department of Family and Protective Services and was appointed possessory conservator of her three children. She is not a party to this appeal.

<sup>2</sup> *Anders v. California*, 386 U. S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

## ***Background***

The following derives from evidence admitted of record. M.N. and the children's mother, C.M., began a relationship when she was only eighteen.<sup>3</sup> When she became pregnant, M.N. became controlling and isolated her from her family. Over approximately eighteen years, the relationship endured domestic violence, drug use, financial hardship, unsafe living conditions, and instability. In November 2019, appellee, the Texas Department of Family and Protective Services, received a report alleging neglectful supervision of the children. An investigation resulted in their removal from the home.

C.M. felt trapped by M.N.'s threats and described acts of physical violence such as locking her in a closet and screwing the door shut, tying her up, breaking her ribs, threatening her with a knife, and punching, kicking, and beating her. According to C.M., she has suffered thirteen concussions which have affected her memory and vision. M.N. has also verbally abused her and threatened to kill and dismember her. On one occasion while C.M. was with her mother, M.N. pointed a gun at her. C.M. testified that police were called more than two dozen times over the years and some of the domestic violence occurred in the children's presence. She also said that M.N. harshly disciplined the children which at times left them with bruises.

Other evidence illustrates that M.N. not only used methamphetamine before and after the children were removed but also demanded that C.M. use it when he did. Furthermore, M.N. tested positive for cocaine, methamphetamine, and amphetamines, while two children tested positive for methamphetamine.

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<sup>3</sup> They have four children together but only the three youngest are the subject of the termination suit.

There was evidence presented that the children's surroundings were at times unsafe. According to C.M., M.N. would spend most of his earnings on drugs; that meant utility bills went unpaid and services were disconnected, periodically. And, when electricity was turned off, M.N. used a gas generator for extended periods. A caseworker also described unsafe conditions in the home. They included the home appearing to be always "under construction" with dangerous flooring, exposed wires, and ripped door frames. In her judgment, the home was unsafe for the children to live in.

***Anders v. California***

The procedures set forth in *Anders*, pertaining to a non-meritorious appeal of a criminal conviction, are applicable to the appeal of an order terminating parental rights. See *In re A.W.T.*, 61 S.W.3d 87, 88 (Tex. App.—Amarillo 2001, no pet.) (per curiam); see also *In re P.M.*, 520 S.W.3d 24, 27 (Tex. 2016) (per curiam) (stating that counsel's obligation to the client may be satisfied by filing an appellate brief meeting the standards set in *Anders* and its progeny). The brief filed in this appeal meets the requirements of *Anders* by presenting a professional evaluation of the record and demonstrating why there are no arguable grounds for reversal of the trial court's termination order.

In support of his motion to withdraw, counsel certifies he has conducted a conscientious examination of the record, and in his opinion, the record reflects no potentially plausible basis to support an appeal. See *Kelly v. State*, 436 S.W.3d 313, 318–19 (Tex. Crim. App. 2014). Counsel has demonstrated that he has complied with the requirements of *Anders* by (1) providing a copy of the brief to M.N. and (2) notifying him of his right to file a pro se response if he desired to do so. *Id.* By letter dated July

14, 2022, this Court also notified M.N. of his right to file a response to counsel's brief, should he be so inclined. No response has been received from him.

***Applicable Law***

Pursuant to *In re N.G.*, 577 S.W.3d 230, 235–36 (Tex. 2019) (per curiam), this Court must also review the trial court's findings under section 161.001(b)(1)(D) or (E) to determine if either finding is supported by clear and convincing evidence even when another ground for termination is sufficient because of the potential consequences for future terminations under subsection (M). *Id.* at 234. Subsection (M) provides for termination of parental rights to another child if the parent has previously had parental rights terminated based on a finding that the parent's conduct violated subsection (D) or (E). See TEX. FAM. CODE ANN. § 161.001(b)(1)(M). Subsection (D) requires a showing that the environment in which the child was placed posed a danger to the child's physical or emotional health. *In re J.A.S.*, No. 07-12-00150-CV, 2012 Tex. App. LEXIS 8087, at \*14 (Tex. App.—Amarillo Sept. 25, 2012, no pet.) (mem. op.). Subsection (E) permits termination when the parent engaged in conduct or knowingly placed the children with persons who engaged in conduct which endangered the children's physical or emotional well-being. See TEX. FAM. CODE ANN. § 161.001(b)(1)(E).

We independently examined the entire record to determine whether there are any non-frivolous issues that might support the appeal. That examination leads us to agree with the representation of appellate counsel that no arguable issues support the appeal or reversal. So too does it lead us to conclude that clear and convincing evidence supports termination under subsections (D) and (E). The litany of evidence described earlier illustrates as much.

We affirm the trial court's order terminating M.N.'s parental rights. We take no action on counsel's motion to withdraw.<sup>4</sup>

Per Curiam

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<sup>4</sup> An *Anders* motion to withdraw filed in the court of appeals, in the absence of additional grounds for withdrawal, may be premature. *In re P.M.*, 520 S.W.3d at 27. Courts have a duty to see that withdrawal of counsel will not result in prejudice to the client. *Id.* In light of *In re P.M.*, we call counsel's attention to the continuing duty of representation through the exhaustion of proceedings, which may include the filing of a petition for review in the Texas Supreme Court. Appointed counsel's obligations can be satisfied by filing a petition for review that meets the standards for an *Anders* brief if M.N. cares to pursue further review. *Id.* at 27–28.