



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

No. 07-22-00108-CV

IN THE INTEREST OF R.M., A CHILD

**On Appeal from the County Court at Law No. 3
Lubbock County, Texas,
Trial Court No. 2021-542,782; Honorable Kelly Tesch, Presiding**

August 25, 2022

MEMORANDUM OPINION

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

The trial court terminated Mother, J.M.'s, parental rights to her child, R.M. (14 months old); she appeals from that judgment.¹ J.M.'s appointed counsel filed a motion to withdraw, together with an *Anders*² brief in support thereof. In the latter, counsel certified that she diligently searched the record and concluded that the appeal was without merit. In a letter to Mother, appellate counsel informed Mother of her right to file a pro se response and provided a copy of the appellate record. The Court also notified Mother of

¹ To protect the child's privacy, we refer to the parents and child by their initials. See TEX. FAM. CODE ANN. § 109.002(d); TEX. R. APP. P. 9.8(a), (b). The parental rights of her father, E.M., were also terminated, but he did not appeal.

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

her right to file her own response if she wished to do so. To date, no response has been received.

In compliance with the principles enunciated in *Anders*, appellate counsel discussed potential areas for appeal concerning the grounds on which the trial court relied to terminate Mother's parental rights under subsections 161.001(b)(1)(D), (E), (M), and (O) of the Texas Family Code. Counsel's discussion encompassed the sufficiency of the evidence to support (1) all four statutory grounds on which termination was based and (2) the finding that termination of the parent-child relationship was in the child's best interest. We too independently reviewed the appellate record in search of arguable issues for appeal. See *In re E.J.H.*, No. 07-22-00074-CV, 2022 Tex. App. LEXIS 4465, at *3 (Tex. App.—Amarillo June 29, 2022, no pet. h.). None were found.

Per the guidance of the Supreme Court of Texas in *In re N.G.*, 577 S.W.3d 230 (Tex. 2019) (per curiam), we also conducted an independent review of the evidence underlying the trial court's findings that termination was warranted under section 161.001(b)(1)(D) and (E) of the Texas Family Code. *In re L.G.*, 596 S.W.3d 778, 781 (Tex. 2020) (per curiam) (court of appeals erred "by not detailing its analysis [on (D) and (E)] as required by [*In re N.G.*]"). The evidence shows:

- In January 2021, R.M. was removed when she tested positive for marijuana at birth, as did Mother.
- From June 2021 through February 2022, Mother did not submit to required drug testing.
- December 2021, Mother admitted to using marijuana.
- Mother has a continued pattern of engaging in criminal activity resulting in fines and incarceration since 2007. This included her arrest in June 2021 for possession of marijuana during the pendency of termination proceedings.
- Mother has a history of CPS involvement since 2004. Seven children

were removed from Mother in 2019, due in part to acts that satisfied (D), (E), and (O) predicate grounds, as well as evidence reflecting drug use and lack of stability at home.

- In January 2021, Mother rented a house without working utilities, dirty with trash overflowing, flies, 9-10 dogs/cats living indoors until eviction and utility cessation for thousands owed in rent and utility bills. Mother then moved from Lubbock to Midland to live in a second house that was dilapidated with broken exterior windows and non-functioning door locks.³
- Mother was uncommunicative and uncooperative with Department representatives and failed to initiate or complete many services.
- From November 2021 through April 2022, Mother failed to attend any scheduled visitations with R.M.

Combined, this evidence is legally and factually sufficient to support warranting termination of Mother's relationship with R.M. under predicate grounds (D) and (E). See *In re S.M.*, No. 07-21-00063-CV, 2021 Tex. App. LEXIS 6725, *4-5 (Tex. App.—Amarillo Aug. 16, 2021, no pet.) (mem. op.); *In re A.J.F.*, No. 07-20-00242-CV, 2021 Tex. App. LEXIS 947, *9–10, *11–12 (Tex. App.—Amarillo Feb. 4, 2021, no pet.) (mem. op.). Moreover, the evidence is undisputed that Mother failed to comply with all the provisions of the court's order necessary to obtain the return of her children. TEX. FAM. CODE ANN. § 161.001(b)(1)(O).

Accordingly, the trial court's judgment is affirmed.⁴

Lawrence M. Doss
Justice

³ The Department was denied entry to the home.

⁴ We take no action on counsel's motion to withdraw from representation but call counsel's attention to the continuing duty of representation through the exhaustion of proceedings, which may include filing a petition for review in the Supreme Court of Texas. See *In re P.M.*, 520 S.W.3d 24, 27 (Tex. 2016) (per curiam).