



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

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No. 07-22-00282-CV

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**IN THE INTEREST OF A.B. AND A.B., CHILDREN**

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On Appeal from the 72nd District Court  
Lubbock County, Texas  
Trial Court No. 2020-538,371, Honorable Ann-Marie Carruth, Presiding

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**November 7, 2022**

**ORDER OF ABATEMENT AND REMAND**

Before QUINN, CJ., and PARKER and YARBROUGH, JJ.

Appellant, M.H., appeals from the trial court's order terminating his parental rights to A.B., a child, in a suit brought by Appellee, the Texas Department of Family and Protective Services. We remand the cause to the trial court for further proceedings.

M.H.'s appellate brief was originally due September 12, 2022, but we granted his appointed counsel, Cardine Watson, two extensions to file a brief. By letter of October 25, 2022, we admonished Watson that no further extensions would be granted and that we would abate the appeal and remand the cause to the trial court if a brief was not filed

by October 31. On November 3, 2022, Watson filed a motion for an extension to November 8, stating that:

“Prior to Appellant’s counsel appointment of this brief, Appellant’s counsel requested that he be removed from the appointment list. Appellant’s counsel knew that he had several trials, settings, and hearings on the horizon that would limit his ability to write appeals and take on new cases. Moreover, Appellant’s counsel knew he could no longer dedicate the amount of time needed to write adequate briefs. Nonetheless, Appellant’s counsel was still appointed this brief.”

Indigent persons have a statutory right to counsel in parental rights termination cases brought by the Department. TEX. FAM. CODE ANN. § 107.013(a)(1). That right includes the right to effective counsel through the exhaustion of the appeal. See TEX. FAM. CODE ANN § 107.016(2)(B) (requiring appointed counsel to serve until all appeals in relation to any final order terminating parental rights are exhausted or waived); *In re M.S.*, 115 S.W.3d 534, 544 (Tex. 2003) (holding that the statutory right to counsel in parental-rights termination cases embodies the right to effective counsel). Effective assistance of counsel on appeal cannot be afforded without requiring that counsel file a brief on an appellant’s behalf. *Guillory v. State*, 557 S.W.2d 118, 121 (Tex. Crim. App. 1977).

We, therefore, deny Watson’s motion for extension, abate the appeal, and remand the cause to the trial court for further proceedings. See TEX. R. APP. P. 38.8(a)(2); *In re T.V.*, 8 S.W.3d 448, 449–50 (Tex. App.—Waco 1999, order) (per curiam) (remanding termination appeal for appointment of new counsel where appellant’s counsel failed to file an appellate brief). Upon remand, and due to the time-sensitive nature of an appeal from a parental termination order, the trial court shall utilize whatever means necessary to

appoint new counsel to represent M.H. in this appeal.<sup>1</sup> See TEX. R. JUD. ADMIN. 6.2(a). The appointment shall be made on or before November 17, 2022. The name, address, email address, telephone number, and state bar number of newly appointed counsel shall be provided in an order of the trial court. A supplemental clerk's record containing the order shall be filed with the Clerk of this Court on or before November 17, 2022.

Newly appointed counsel shall file M.H.'s brief within twenty days after the date of appointment unless the deadline is extended by this Court for good cause.

It is so ordered.

Per Curiam

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<sup>1</sup> The trial court should also consider granting Watson's request to be removed from the appointment list.