

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-15-00359-CV

W. T. W., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF RUNNELS COUNTY, 119TH JUDICIAL DISTRICT
NO. 789, HONORABLE BEN WOODWARD, JUDGE PRESIDING**

MEMORANDUM OPINION

On May 14, 2015, appellant W.T.W was present and was represented by appointed counsel at a trial to determine whether his parental rights to his child should be terminated. A copy of W.T.W.'s 2008 judgment of conviction for aggravated sexual assault of a child was entered without objection. The judgment reflected a sentence of fifty years imprisonment. The court heard evidence of W.T.W.'s desire that the child be placed with a member of his family. The caseworker for the Department testified about her attempts to find a family member of W.T.W. with whom the child might be placed and of the unsuitability of each of those potential placements due to criminal history or instability. The caseworker further testified that she believed it was in the best interest of the child that the parental rights of W.T.W. be terminated. The trial court signed an order terminating appellant W.T.W.'s parental rights to his child, finding that W.T.W knowingly engaged in criminal conduct that has resulted in his conviction and imprisonment and his inability to care for

the child for at least two years from the date of filing of the termination petition, and that termination was in the best interest of the child. *See* Tex. Fam. Code § 161.001(1)(Q), (2).

On appeal, W.T.W.’s appellate attorney has filed a brief stating that after reviewing the record, she believes that the appeal is frivolous.¹ Counsel has presented a professional evaluation of the record and explained why she believes there are no arguable grounds for reversal. Counsel has represented to the Court that she provided a copy of the brief to W.T.W.; advised him of his right to examine the appellate record and file a pro se brief; provided him with the mailing address of the Runnels County District Clerk; and notified him of his deadline for filing a pro se brief. *See Taylor v. Texas Dep’t of Protective & Regulatory Svcs.*, 160 S.W.3d 641, 646-47 n.4 Tex. App.—Austin 2005, pet. denied); *see also Kelly v. State*, 436 S.W.3d 313, 319-21 (Tex. Crim. App. 2014). W.T.W. has not filed a pro se brief or made contact with this Court. We have conducted our own review of the record and we agree that the appeal is frivolous. We therefore affirm the trial court’s order of termination and grant counsel’s motion to withdraw as attorney of record.

David Puryear, Justice

Before Justices Puryear, Goodwin, and Bourland

Affirmed

Filed: August 21, 2015

¹ This and other Texas courts have held that it is appropriate in a parental termination case to file a brief asserting that the appeal is frivolous. *See Taylor v. Texas Dep’t of Protective & Regulatory Svcs.*, 160 S.W.3d 641, 646-47 n.4 Tex. App.—Austin 2005, pet. denied); *In re D.E.S.*, 135 S.W.3d 326, 329 (Tex. App.—Houston [14th Dist.] 2004, no pet.); *In re K.D.*, 127 S.W.3d 66, 67 (Tex. App.—Houston [1st Dist.] 2003, no pet.).