

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00175-CV

L. A. R. , Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF HAYS COUNTY, 22ND JUDICIAL DISTRICT
NO. 14-1102, HONORABLE WILLIAM R. HENRY, JUDGE PRESIDING**

MEMORANDUM OPINION

L.A.R. appeals from the trial court's order terminating his parental rights to his daughters A.R. and S.R.¹ The Texas Department of Family and Protective Services alleged that he placed the children in conditions that endangered their well-being, engaged in conduct that endangered the children, and engaged in criminal conduct that resulted in L.A.R.'s imprisonment and inability to care for the children for at least two years. *See* Tex. Fam. Code § 161.001(b)(1)(D), (E), (Q). On June 6, 2016, the Department sought conservatorship, alleging that about three weeks earlier, it had learned that J.M., the children's mother, had missed at least four appointments related to A.R.'s medical needs; that a Department caseworker had assessed the family's home and found it to be filthy; and that L.A.R., J.M., and the Department had entered into a safety plan under which the children and J.M. were to stay with their neighbor, Johnny Saxon, until the house was safe for

¹ J.M.'s parental rights were terminated earlier in the proceeding, and she is not a party to this appeal.

the children.² On June 5, L.A.R. shot and killed Saxon. J.M., the children, Saxon's mother, and Saxon's twelve-year-old daughter were in Saxon's home at the time, and J.M. testified that after L.A.R. shot Saxon, he entered the home and warned that he would return and kill everyone if anyone called for help. J.M. further alleged that earlier that day, L.A.R. had physically assaulted her twice. The jury determined that L.A.R.'s parental rights should be terminated, and the trial court signed an order in accordance with that verdict.

L.A.R.'s appellate attorney has filed a brief concluding that the appeal is frivolous and without merit.³ His brief presents a professional evaluation of the record showing that there are no arguable grounds for reversal. *See Anders v. California*, 386 U.S. 738, 743-44 (1967); *Taylor v. Texas Dep't of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646-47 (Tex. App.—Austin, pet. denied). L.A.R.'s attorney sent L.A.R. a copy of the brief and advised him that he had the right to examine the record and file a pro se brief. *See Anders*, 386 U.S. at 744. L.A.R. has filed a pro se brief asserting various errors in the underlying proceeding.

We have independently reviewed the entire record, including the evidence presented to the jury and the procedures that were observed. *See S.R., III v. Texas Department of Family & Protective Servs.*, No. 03-16-00366-CV, 2016 WL 3917189, at *1 (Tex. App.—Austin July 14, 2016, no pet. h.) (mem. op.). We have also considered the arguments raised in L.A.R.'s pro se brief and have determined that they are without merit. We agree with appointed counsel that the appeal is

² The Department also alleged a history of domestic violence and drug use by the parents.

³ It is appropriate in a parental termination case to file a brief asserting that the appeal is frivolous. *In re P.M.*, No. 15-0171, ___ S.W.3d ___, 2016 WL 1274748, at *3 (Tex. Apr. 1, 2016); *Taylor v. Texas Dep't of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646-47 & n. 4 (Tex. App.—Austin 2005, pet. denied).

frivolous and without merit. We affirm the trial court’s final decree terminating L.A.R.’s parental rights. We deny counsel’s motion to withdraw.⁴

David Puryear, Justice

Before Justices Puryear, Goodwin, and Field

Affirmed

Filed: August 18, 2016

⁴ In *In re P.M.*, the Texas Supreme Court held that the right to counsel in suits seeking the termination of parental rights extends to “all proceedings in [the Texas Supreme Court], including the filing of a petition for review.” 2016 WL 1274748, at *3. Thus, counsel’s obligation to L.A.R. has not yet been discharged. *See id.* If L.A.R., after consulting with counsel, desires to file a petition for review, counsel should timely file with the Texas Supreme Court “a petition for review that satisfies the standards for an *Anders* brief.” *See id.*