

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-16-00813-CV**

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**L. R. L. J., Appellant**

**v.**

**Texas Department of Family and Protective Services, Appellee**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 201ST JUDICIAL DISTRICT  
NO. D-1-FM-15-001844, HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING**

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**MEMORANDUM OPINION**

Appellant L.R.L.J. appeals from the trial court’s decree terminating her parental rights to her son, J.D.D. The Texas Department of Family and Protective Services filed suit requesting termination of appellant’s parental rights on the grounds that she knowingly placed J.D.D. in conditions that endangered his well-being, that she engaged in conduct that endangered his well-being, that she failed to comply with the provisions of a court order that specifically established the actions necessary for her to obtain the return of J.D.D., and that termination was in J.D.D.’s best interest. *See* Tex. Fam Code § 161.001(b)(1)(D), (E), (O), (2). The Department sought conservatorship, alleging that it had received a report from a nurse practitioner regarding injuries that J.D.D. was treated for in an emergency room when he was less than a year old. The report described the injuries as bruises in the shape of a hand on J.D.D.’s chest and abdomen and the bruising as “highly concerning for an inflicted injury due to the age of the child, . . . as well as the bruising pattern.” After receiving the report, the Department interviewed several employees at

J.D.D.'s daycare. One employee reported noticing that J.D.D. had had a bruised eye and cheek a few weeks earlier, and another employee related that J.D.D.'s behavior had become more aggressive recently. A couple of the employees also described appellant's relationship with J.D.D.'s father as volatile. The trial court ordered that the Department be made temporary managing conservator of J.D.D. and that J.D.D. be placed in the foster care system.

As part of her family service plan, appellant was required to participate in and complete protective parenting classes and to submit to a psychological evaluation as well as a drug and alcohol assessment. Based on appellant's completion of all required services, the trial court ordered a monitored return of J.D.D. to appellant, but in light of allegations that J.D.D.'s father had previously assaulted appellant, the court also ordered that J.D.D.'s father was not allowed to come within 200 yards of J.D.D. and J.D.D.'s home and prohibited appellant from allowing J.D.D. to have any contact with his father that was not supervised by the Department. A few months later, the Department filed a motion asserting that J.D.D.'s continued placement with appellant "has become insupportable and is no longer appropriate to meet the needs of" J.D.D. and seeking to again place J.D.D. in the care of the Department. In the motion, the Department alleged that jail recordings of appellant's conversations with J.D.D.'s father revealed that they intended to resume their romantic relationship after he was released from jail and further alleged that appellant had violated the court's order by allowing J.D.D.'s father to enter her home shortly after he was released. After reviewing the allegations, the trial court ordered the removal of J.D.D. from appellant's home.

Five months after the trial court issued its order removing J.D.D. from appellant's home, appellant signed an Affidavit of Relinquishment of Parental Rights. During the subsequent termination hearing, J.D.D.'s foster parents testified that they love J.D.D. and have a joyful

relationship with him, that they would like to adopt him if appellant's parental rights are terminated, that he has bonded with their children, and that he is thriving in their care. After the hearing, the trial court signed a final decree terminating appellant's parental rights. *See id.* §161.001(b)(1)(K), (2).

On appeal, appellant's attorney has filed a brief stating that after reviewing the record, she believes that the appeal is frivolous.<sup>1</sup> 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 appellant, advised her of her right to examine the appellate record and file a pro se brief, provided her with a copy of the appellate record, and notified her of the deadline for filing a pro se brief. *See Taylor v. Texas Dep't of Protective & Regulatory Servs.*, 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) (setting out requirements in criminal context). Appellant has not filed a pro se brief or made contact with this Court. Having conducted our own review of the record, we agree that the appeal is frivolous. Accordingly, we affirm the trial court's final decree. Further, in accordance with the Texas Supreme Court's recent decision, we deny counsel's motion to withdraw. *In re P.M.*, No. 15-0171, 2016 Tex. LEXIS 236, at \*7-8 (Tex. Apr. 1, 2016).<sup>2</sup>

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<sup>1</sup> 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 Servs.*, 160 S.W.3d 641, 646 & 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.).

<sup>2</sup> The Texas Supreme Court has 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." *In re P.M.*, No. 15-0171, 2016 Tex. LEXIS 236, at \*7 (Tex. Apr. 1, 2016). Accordingly, counsel's obligation to appellant has not yet been discharged. *See id.* If appellant, after

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David Puryear, Justice

Before Justices Puryear, Pemberton and Goodwin

Affirmed

Filed: March 15, 2015

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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.” *Id.* at \*8.