

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-16-00884-CV

M. S., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF BURNET COUNTY, 424TH JUDICIAL DISTRICT
NO. 44897A, HONORABLE CHERYLL MABRAY, JUDGE PRESIDING**

MEMORANDUM OPINION

M.S. appeals from the trial court's order terminating his parental rights to his minor daughter. *See* Tex. Fam. Code § 161.001(b). In support of its petition to terminate M.S.'s parental rights, the Texas Department of Family and Protective Services alleged that M.S.'s parental rights should be terminated on multiple grounds, *see id.* § 161.001(b)(1), and that termination of M.S.'s parental rights was in the child's best interest. *See id.* § 161.001(b)(2). Following a termination hearing, the trial court found by clear and convincing evidence that statutory grounds for terminating M.S.'s parental rights existed under Texas Family Code sections 161.001(b)(1)(D), (E), (N), (O), and (P), and that termination was in the child's best interest.

M.S.'s appellate attorney has filed a brief concluding that the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 744 (1967); *Taylor v. Texas Dep't of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646–47 (Tex. App.—Austin 2005, pet. denied) (applying *Anders* procedure

in appeal from termination of parental rights). The brief meets the requirements of *Anders* by presenting a professional evaluation of the record demonstrating why there are no arguable grounds to be advanced on appeal. M.S.’s appellate attorney has certified to this Court that he has (1) provided a copy of the brief to M.S. and informed him of his right to file a pro se brief, (2) advised M.S. of his right to review the appellate record, (3) explained to M.S. the process for obtaining the appellate record, (4) provided M.S. with a Motion for Pro Se Access to the Appellate Record lacking only M.S.’s signature and the date, and (5) provided M.S. with this Court’s mailing address. *See Taylor*, 160 S.W.3d at 646–47 & n.4; *see also Kelly v. State*, 436 S.W.3d 313, 319–21 (Tex. Crim. App. 2014). M.S. has not filed a pro se brief.

Upon receiving an *Anders* brief, we must conduct a full examination of all of the proceedings to determine whether the appeal is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988). We have reviewed the entire record, including the *Anders* brief submitted on M.S.’s behalf, and we have found nothing that would arguably support an appeal. We agree that the appeal is frivolous and without merit. Accordingly, we affirm the trial court’s order terminating M.S.’s parental rights. We deny counsel’s motion to withdraw.¹

¹ 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.” *In re P.M.*, No. 15-0171, 2016 WL 1274748, at *3 (Tex. Apr. 1, 2016) (per curiam). Accordingly, counsel’s obligation to M.S. has not yet been discharged. *See id.* If M.S., 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.*

Scott K. Field, Justice

Before Chief Justice Rose, Justices Field and Bourland

Affirmed

Filed: July 6, 2017