

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00133-CV

N. K. T., Appellant

v.

Texas Department of Family & Protective Services, Appellee

**FROM THE DISTRICT COURT OF COMAL COUNTY, 274TH JUDICIAL DISTRICT
NO. C2016-0188C, HONORABLE MELISSA McCLENAHAN, JUDGE PRESIDING**

MEMORANDUM OPINION AND ORDER

PER CURIAM

Appellant is attempting to appeal from the underlying proceeding in which the trial court signed an order terminating appellant's parental rights to his children. Appellant has filed an affidavit of inability to pay costs but is unrepresented. On this Court's own motion, we abate this appeal and remand the case to the trial court for further proceedings. On remand, the trial court is directed to determine if appellant is indigent and whether an attorney ad litem should be appointed to represent him. *See* Tex. Fam. Code § 107.013(a) (requiring court to appoint attorney ad litem to represent "indigent parent of the child who responds in opposition to the termination or appointment").

Should the trial court determine that appellant is indigent and entitled to appointment of counsel, the trial court is directed to appoint counsel and provide counsel's name, address,

telephone number, and state bar number to the Clerk of this Court immediately upon such appointment. Any orders issued shall be included in a supplemental clerk's record, and the supplemental clerk's record is to be filed with the Clerk of this Court on or before May 8, 2017. The trial court also is directed to hold any hearings it deems necessary to comply with this order. Any such hearings shall be recorded and a supplemental reporter's record containing these hearings shall be filed with the Clerk of this Court on or before May 8, 2017.

This appeal shall be reinstated upon the date the supplemental clerk's record is filed with this Court or thirty days from the date of this order, whichever date is later.¹

Before Justices Puryear, Pemberton, and Goodwin

Abated and Remanded

Filed: April 20, 2017

¹ We also observe that appellant's notice of appeal appears to be premature. *See* Tex. R. App. P. 27.1, 27.2. Texas Rule of Appellant Procedure 27.2 provides that an appellate court may permit a party to cure a prematurely filed appeal by allowing "an appealed order that is not final to be modified so as to be made final and may allow the modified order and all proceedings relating to it to be included in a supplemental record." On remand, we give appellant 30 days after the date of this order to take action to cure the jurisdictional defect and to request a supplemental clerk's record containing a final order. Failure to comply with this order will result in dismissal of this appeal for want of jurisdiction. *See* Tex. R. App. P. 42.3(a).