

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-18-00350-CV

T. Y. J., Appellant

v.

Texas Department of Family and Protective Services, Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 261ST JUDICIAL DISTRICT
NO. D-1-FM-16-005029, HONORABLE ORLINDA NARANJO, JUDGE PRESIDING**

MEMORANDUM OPINION

Appellant T.Y.J. appeals from the trial court’s order terminating her parental rights to her child. *See* Tex. Fam. Code § 161.001. Following a bench trial, the trial court found by clear and convincing evidence that statutory grounds existed for terminating T.Y.J.’s parental rights and that termination was in the child’s best interest. *See id.* §§ 161.001(b)(2), 161.003.

Appellant’s court-appointed counsel has filed a brief concluding that the appeal is frivolous and without merit. *See Anders v. California*, 386 U.S. 738, 744 (1967); *In re P.M.*, 520 S.W.3d 24, 27 & n.10 (Tex. 2016) (per curiam) (approving use of *Anders* procedure in appeals from termination of parental rights because it “strikes an important balance between the defendant’s constitutional right to counsel on appeal and counsel’s obligation not to prosecute frivolous appeals” (citations omitted)). The brief meets the requirements of *Anders* by presenting a professional evaluation of the record and demonstrating why there are no arguable grounds to be advanced on

appeal. See 386 U.S. at 744; *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 parental-termination case). Appellant's counsel has certified to this Court that he has provided appellant with a copy of the *Anders* brief and information regarding where she may obtain a copy of the record and has informed appellant of her right to file a pro se brief. The Department of Family and Protective Services has filed a response to the *Anders* brief waiving its right to file an appellee's brief but requesting that it be afforded an opportunity to respond to a pro se brief filed by appellant. To date, no pro se brief has been filed.

We have conducted a full examination of all of the proceedings to determine whether the appeal is wholly frivolous, as we must when presented with an *Anders* brief. See *Penson v. Ohio*, 488 U.S. 75, 80 (1988). After reviewing the record and the *Anders* brief, we find nothing in the record that would arguably support T.Y.J.'s appeal. We agree with appellant's counsel that the appeal is frivolous and without merit. Accordingly, we affirm the trial court's order terminating the parental rights of T.Y.J.¹

¹ The *Anders* brief includes a request by counsel to withdraw. The Texas Supreme Court has held that the right to counsel in suits seeking 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.*, 520 S.W.3d 24, 27–28 (Tex. 2016) (per curiam). Accordingly, counsel's obligation to T. Y. J. has not yet been discharged and, therefore, counsel may not withdraw at this juncture. See *id.* If after consulting with counsel appellant desires to file a petition for review, her counsel should timely file with the Texas Supreme Court “a petition for review that satisfies the standards for an *Anders* brief.” See *id.*

David Puryear, Justice

Before Justices Puryear, Goodwin, and Bourland

Affirmed

Filed: October 11, 2018