

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00228-CV

J. M. D., Appellant

v.

Department of Family and Protective Services, Appellee

**FROM THE 345TH DISTRICT COURT OF TRAVIS COUNTY
NO. D-1-FM-17-004585, THE HONORABLE TIM SULAK, JUDGE PRESIDING**

MEMORANDUM OPINION

After a bench trial, the trial court signed a final decree terminating J.M.D.'s parental rights to his children, L.M.D. and J.M.D., Jr. The court found that J.M.D.: (1) engaged in conduct or knowingly placed the children with persons who engaged in conduct which endangered the children's physical or emotional well-being; (2) constructively abandoned the children who had been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than six months; and (3) failed to comply with the provisions of a court order that specifically established the actions necessary for him to obtain the return of the children. *See* Tex. Fam. Code § 161.001(b)(1)(E), (N), (O). The court also found that termination of J.M.D.'s parental rights was in the children's best interest. *Id.* § 161.001(b)(2).

J.M.D.’s court-appointed appellate counsel has filed a brief discussing the record, the elements of the cause of action, and the standard of review and concluding that J.M.D. has no arguable grounds for appeal and that his appeal is wholly frivolous. *See Anders v. California*, 386 U.S. 738, 744 (1967); *High v. State*, 573 S.W.2d 807, 811 (Tex. Crim. App. 1978); *see also 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). Counsel has certified to this Court that he provided J.M.D. with a copy of the brief, along with a notice advising J.M.D. of his right to examine the appellate record and to file a pro se brief. No pro se brief has been filed.

Having thoroughly reviewed the record and counsel’s brief, we agree with counsel’s assessment that the appeal is frivolous and without merit. We affirm the trial court’s final decree of termination. Counsel’s motion to withdraw is denied. *See In re P.M.*, 520 S.W.3d 24, 27 (Tex. 2016).¹

Jeff Rose, Chief Justice

Before Chief Justice Rose, Justices Kelly and Smith

Affirmed

Filed: August 9, 2019

¹ 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 (Tex. 2016). Thus, counsel’s obligation to J.M.D. has not yet been discharged, and her request to withdraw is premature. *See id.* If J.M.D. 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.” *Id.* at 27-28.