



NUMBER 13-16-00280-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN THE INTEREST OF A.Y.M., F.V. III, I.V., A.G., I.S., CHILDREN

**On appeal from the County Court at Law No. 5
of Nueces County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Rodriguez and Benavides
Memorandum Opinion by Chief Justice Valdez**

This is an accelerated appeal of a December 7, 2015 order terminating appellant's parental rights to her children, A.Y.M., F.V. III, I.V., A.G., and I.S. Appellant wished to pursue an appeal from the order, and the trial court appointed counsel to prosecute an appeal. Appellant's counsel has filed a motion to withdraw along with a brief stating that the appeal is without merit and that there are no arguable grounds for reversal.¹ See

¹ On September 10, 2015, appellant filed her notice of appeal with the district clerk of the trial court. On May 23, 2016, this Court received appellant's notice of appeal, which had been filed with the district clerk. On June 9, 2016, the trial court reporter filed the reporter's record in this Court. On October 17, 2016, appellant's counsel filed his appellate brief.

Anders v. California, 386 U.S. 738, 744 (1967); *Porter v. Texas Dept. of Protective & Regulatory Services*, 105 S.W.3d 52, 56 (Tex. App.—Corpus Christi 2003, no pet.) (permitting appointed counsel in a parental termination appeal to file a brief in compliance with *Anders*). We affirm the trial court's judgment but deny counsel's motion to withdraw.

I. **ANDERS BRIEF**

Pursuant to *Anders v. California*, appellant's counsel filed a brief stating that his review of the record yielded no grounds of reversible error upon which an appeal can be predicated. See 386 U.S. at 744. Counsel's brief meets the requirements of *Anders* as it presents a professional evaluation demonstrating why there are no arguable grounds to advance on appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) ("In Texas, an *Anders* brief need not specifically advance 'arguable' points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities.") (citing *Hawkins v. State*, 112 S.W.3d 340, 343–44 (Tex. App.—Corpus Christi 2003, no pet.)); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991).

In compliance with *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978) and *Kelly v. State*, 436 S.W.3d 313, 319–22 (Tex. Crim. App. 2014), appellant's counsel carefully discussed why, under controlling authority, there is no reversible error in the trial court's judgment. Counsel has also informed this Court that appellant has been (1) notified that counsel has filed an *Anders* brief; (2) provided with a copy of the *Anders* brief; (3) informed of her right to file a pro se response and review the record preparatory to filing that response²; and (4) provided with a pro se motion for

² In the criminal context, the Texas Court of Criminal Appeals has held that "the pro se response need not comply with the rules of appellate procedure in order to be considered. Rather, the response should identify for the court those issues which the indigent appellant believes the court should consider in

access to the appellate record. See *Anders*, 386 U.S. at 744; *Kelly*, 436 S.W.3d at 319–20; see also *In re Schulman*, 252 S.W.3d at 409 n.23. A reasonable amount of time has passed, and we have not received a pro se response from appellant.

II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the case is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80 (1988). A court of appeals has two options when an *Anders* brief is filed. After reviewing the entire record, it may: (1) determine that the appeal is wholly frivolous and issue an opinion explaining that it finds no reversible error; or (2) determine that there are arguable grounds for appeal and remand the case to the trial court for appointment of new appellate counsel. *Bledsoe v. State*, 178 S.W.3d 824, 826–27 (Tex. Crim. App. 2005). If the court finds arguable grounds for appeal, it may not review those grounds until after new counsel has briefed those issues on appeal. *Id.*

We have reviewed the entire record and counsel’s brief, and we have found nothing that would arguably support an appeal. See *id.* at 827–28 (“Due to the nature of *Anders* briefs, by indicating in the opinion that it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirement of Texas Rule of Appellate Procedure 47.1.”); *Stafford*, 813 S.W.2d at 509. There is no reversible error in the record.

III. MOTION TO WITHDRAW

Appellant’s counsel has asked this Court for permission to withdraw as appellate

deciding whether the case presents any meritorious issues.” *In re Schulman*, 252 S.W.3d 403, 409 n.23 (Tex. Crim. App. 2008).

counsel. However, the Texas Supreme Court recently 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, ___ S.W.3d ___, 2016 WL 1274748, at *3 (Tex. Apr. 1, 2016) (per curiam). Accordingly, counsel’s obligation to appellant has not yet been discharged. See *id.* Counsel’s motion to withdraw is therefore denied at this time. See *id.* If appellant, 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.*

IV. CONCLUSION

We affirm the trial court’s judgment.

/s/ Rogelio Valdez
ROGELIO VALDEZ
Chief Justice

Delivered and filed the
22dn day of November, 2016.