



NUMBER 13-21-00056-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI – EDINBURG

IN THE INTEREST OF H.E.A. AND B.G.A., CHILDREN

**On appeal from the 267th District Court
of DeWitt County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Benavides and Silva
Memorandum Opinion by Chief Justice Contreras**

Appellant J.A. appeals the trial court's judgment involuntarily terminating her parental rights with respect to minor children H.E.A. and B.G.A.¹ We affirm.

I. *ANDERS* BRIEF

J.A.'s court-appointed appellate counsel has filed a brief stating that he has diligently reviewed the entire record and has concluded that the appeal "presents no

¹ We refer to appellant and the children by their initials in accordance with the rules of appellate procedure. See TEX. R. APP. P. 9.8(b)(2).

legally non-frivolous questions.” See *Anders v. California*, 386 U.S. 738 (1967); *Porter v. Tex. Dep’t of Protective & Regulatory Servs.*, 105 S.W.3d 52, 56 (Tex. App.—Corpus Christi 2003, no pet.) (“[W]hen appointed counsel represents an indigent client in a parental termination appeal and concludes that there are no non-frivolous issues for appeal, counsel may file an *Anders*-type brief.”). Counsel’s brief meets the requirements of *Anders* as it presents a professional evaluation showing why there are no arguable grounds for advancing an appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) (orig. proceeding) (“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.”).

Counsel has informed this Court in writing that he has: (1) notified J.A. that he has filed an *Anders* brief and a motion to withdraw; (2) provided J.A. with copies of both pleadings; (3) informed J.A. of her rights to file a pro se response,² to review the record preparatory to filing that response, and to seek review if we conclude that the appeal is frivolous; (4) supplied J.A. with a form motion for pro se access to the appellate record. See *Anders*, 386 U.S. at 744. More than an adequate time has passed, and J.A. has filed neither a motion for pro se access to the record nor a pro se response.

II. INDEPENDENT REVIEW

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the appeal is wholly frivolous. See *Penson v. Ohio*,

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

488 U.S. 75, 80 (1988); *see also In re G.M.*, No. 13-08-00569-CV, 2009 WL 2547493, at *1 (Tex. App.—Corpus Christi—Edinburg Aug. 20, 2009, no pet.) (mem. op.). We have reviewed the entire record and counsel’s brief and we have found no reversible error. *See Bledsoe v. State*, 178 S.W.3d 824, 827–28 (Tex. Crim. App. 2005) (“Due to the nature of *Anders* briefs, by indicating in the opinion it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirements of Texas Rule of Appellate Procedure 47.1.”). We have specifically reviewed the trial court’s findings under parts (D) and (E) of family code § 161.001(b)(1), and we have found no non-frivolous issues that could be raised on appeal with respect to those findings. *See In re N.G.*, 577 S.W.3d 230, 237 (Tex. 2019) (holding that “due process and due course of law requirements mandate that an appellate court detail its analysis for an appeal of termination of parental rights under section 161.001(b)(1)(D) or (E) of the Family Code”).

III. MOTION TO WITHDRAW

J.A.’s counsel has filed a motion to withdraw. *See Anders*, 386 U.S. at 744; *see also In re Schulman*, 252 S.W.3d at 408 n.17 (“If an attorney believes the appeal is frivolous, he must withdraw from representing the appellant.”). However, when an *Anders* brief is filed in a parental termination appeal, the appellant’s right to appointed counsel 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) (citing TEX. FAM. CODE ANN. § 107.013(a)(1)). Thus, in the absence of additional grounds for withdrawal, a motion to withdraw brought in the court of appeals may be premature. *Id.* Counsel is permitted to withdraw only for good cause, and counsel’s belief that the client has no grounds to seek

further review from the court of appeals' decision does not constitute good cause. *Id.*

Here, counsel's motion does not show "good cause" for withdrawal other than his determination that "all possible issues present in this appeal are legally frivolous." Accordingly, counsel's motion to withdraw is denied. *See id.*³

IV. CONCLUSION

We affirm the trial court's judgment.

DORI CONTRERAS
Chief Justice

Delivered and filed on the
29th day of July, 2021.

³ The Texas Supreme Court has noted that, in cases such as this, "appointed counsel's obligations [in the supreme court] can be satisfied by filing a petition for review that satisfies the standards for an *Anders* brief." *In re P.M.*, 520 S.W.3d 24, 27–28 (Tex. 2016).