

NO. 12-09-00010-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

§ *APPEAL FROM THE 145TH*

*IN THE INTEREST OF J. H.,
A CHILD*

§ *JUDICIAL DISTRICT COURT OF*

§ *NACOGDOCHES COUNTY, TEXAS*

***MEMORANDUM OPINION
PER CURIAM***

Jennifer Hamilton and Rodney Hamilton appeal from an order terminating their parental rights to J.H. Their respective court-appointed attorneys filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967) and *Gainous v. State*, 436 S.W.2d 137 (Tex. Crim. App. 1969). See *In re K.M.*, 98 S.W.3d 774, 776-77 (Tex. App.—Fort Worth 2003, no pet.) (applying *Anders* procedures to appeals involving termination of parental rights). We affirm.

BACKGROUND

After a hearing, the trial court found by clear and convincing evidence that Jennifer and Rodney each executed an unrevoked or irrevocable affidavit of relinquishment of parental rights to J.H., a child, and that termination was in J.H.'s best interest. Both Jennifer and Rodney timely filed a notice of appeal and statement of appellate points. See TEX. FAM. CODE ANN. § 263.405(a), (b)(Vernon 2008). As required, the trial court held a hearing on the statement of appellate points, and found that Jennifer's and Rodney's appeals are frivolous. See *id.* § 263.405(d). The trial court also

found that Jennifer and Rodney were indigent and appointed appellate counsel for each. *See id.* § 263.405(d), (e). Jennifer and Rodney appealed the trial court's finding that their appeals are frivolous. *See id.* § 263.405(g).

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

Counsel for Jennifer and Rodney, respectively, each filed a brief in compliance with *Anders* and *Gainous*, stating that they have diligently reviewed the appellate record and are of the opinion that the record reflects no reversible error and that there is no error upon which an appeal can be predicated. From our review of the briefs, it is apparent that each attorney is well acquainted with the facts in this case. In compliance with *Anders*, *Gainous*, and *High v. State*, 573 S.W.2d 807, 812 (Tex. Crim. App. 1978), each brief presents a chronological summation of the procedural history of the case, and further states that counsel is unable to raise any arguable issues for appeal.¹ After reviewing the record and counsels' briefs, we agree that the appeal is frivolous and without merit.

CONCLUSION

As required, each attorney has moved for leave to withdraw. *See In re Schulman*, 252 S.W.3d 403, 407 (Tex. Crim. App. 2008) (orig. proceeding); *Stafford v. State*, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991). We are in agreement with counsel that the appeals are wholly frivolous, and their motions for leave to withdraw are hereby *granted*. *See In re Schulman*, 252 S.W.3d at 408-09. We *affirm* the trial court's order.

Opinion delivered December 16, 2009.

Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)

¹ The attorneys certified that they provided their respective clients with a copy of their briefs and that Jennifer and Rodney had the right to file their own brief in the case. The time for filing such briefs has expired and we have received no pro se briefs.