# NO. 12-12-00031-CV

# IN THE COURT OF APPEALS

# TWELFTH COURT OF APPEALS DISTRICT

# TYLER, TEXAS

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| ***IN THE INTEREST OF*** | ***§*** | ***APPEAL FROM THE 145TH*** |
| ***K.M., K.M., AND A.R.,*** | ***§*** | ***JUDICIAL DISTRICT COURT*** |
| ***CHILDREN*** | ***§*** | ***NACOGDOCHES COUNTY, TEXAS*** |

***MEMORANDUM OPINION***
***PER CURIAM***

R.R. appeals the termination of her parental rights. R.R.'s counsel 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). We affirm.

## BACKGROUND

R.R. is the mother of three children, K.M., born June 17, 2002, K.M., born May 12, 2003, and A.R., born December 9, 2005.[1] K.M.[2] is the father of K.M.1 and K.M.2, and J.N. is the father of A.R.[3] Neither father is a party to this appeal. On June 26, 2010, the Department of Family and Protective Services (the Department) filed an original petition for protection of K.M.1, K.M.2,

[1] The initials for the two older children and their father are the same. For purposes of distinguishing the two children, we will refer to the older child as K.M.1 and the younger child as K.M.2.

[2] On September 20, 2011, K.M. signed an unrevoked or irrevocable affidavit of voluntary relinquishment of parental rights to the Texas Department of Family and Protective Services. On December 5, 2011, the jury found that the parent-child relationship between K.M.1, K.M.2, and K.M. should be terminated. Accordingly, on December 29, 2011, the trial court ordered the termination of K.M.'s parent-child relationship with K.M.1 and K.M.2.

[3] On December 5, 2011, the jury found that the parent-child relationship between A.R. and J.N. should not be terminated, but that the Department should be named managing conservator of the child. Accordingly, on December 29, 2011, the trial court ordered that the Department be appointed permanent managing conservator of A.R.

and A.R., for conservatorship, and for termination of R.R.'s parental rights. The Department was appointed temporary managing conservator of K.M.1, K.M.2, and A.R., and R.R. was appointed temporary possessory conservator.

At the conclusion of a jury trial, the jury found that the parent-child relationship between K.M.1, K.M.2, A.R., and R.R. should be terminated. The trial court found, by clear and convincing evidence, that R.R. had engaged in one or more of the acts or omissions necessary to support termination of her parental rights pursuant to Section 161.001(1) of the Texas Family Code.[4] The trial court also determined that termination of the parent-child relationship between K.M.1, K.M.2, A.R., and R.R. was in the children's best interest.[5] Based on these findings, the trial court ordered that the parent-child relationship between K.M.1, K.M.2, A.R., and R.R. be terminated. R.R. filed an amended motion for new trial which was overruled by operation of law. This appeal followed.

## ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

R.R.'s counsel filed a brief in compliance with ***Anders***, stating that he has diligently reviewed the appellate record and is of the opinion that the record reflects no reversible error and that there is no error upon which an appeal can be predicated. This court has previously held that ***Anders*** procedures apply in parental rights termination cases when the Department has moved for termination. *See* ***In re K.S.M.***, 61 S.W.3d 632, 634 (Tex. App.—Tyler 2001, no pet.). In compliance with ***Anders***, counsel's brief presents a professional evaluation of the record demonstrating why there are no reversible grounds on appeal, and referencing any grounds that might arguably support the appeal. *See* ***Anders***, 386 U.S. at 744, 87 S. Ct. at 1400; ***Mays v. State***, 904 S.W.2d 920, 922–23 (Tex. App.—Fort Worth 1995, no pet.). More specifically, R.R.'s counsel discussed three possible issues for appeal, but then explained why these issues are without merit.

In our duties as a reviewing court, we must conduct an independent evaluation of the record to determine whether counsel is correct in determining that the appeal is frivolous. *See* ***Stafford v. State***, 813 S.W.2d 503, 511 (Tex. Crim. App. 1991); ***Mays***, 904 S.W.2d at 923; ***In re***

[4] *See* TEX. FAM. CODE ANN. § 161.001(1) (West Supp. 2012).

[5] *See* TEX. FAM. CODE ANN. § 161.001(2) (West Supp. 2012).

***J.W.***, No. 02-08-211-CV, 2009 WL 806865, at *8 (Tex. App.—Fort Worth Mar. 26, 2009, no pet.) (mem. op.). We have carefully reviewed the appellate record and R.R.'s counsel's brief. We agree that the appeal is wholly frivolous and without merit, and find nothing in the record that might arguably support the appeal.[6] *See* ***Taylor v. Tex. Dep't of Protective & Regulatory Servs.***, 160 S.W.3d 641, 646-47 (Tex. App.—Austin 2005, pet. denied).

## DISPOSITION

As required, R.R.'s counsel has moved for leave to withdraw. *See* ***Anders***, 386 U.S. at 744, 87 S. Ct. at 1400. We are in agreement with R.R.'s counsel that the appeal is wholly frivolous. Accordingly, his motion for leave to withdraw is hereby ***granted***, and we ***affirm*** the trial court's judgment. *See* TEX. R. APP. P. 43.2.

Opinion delivered August 30, 2012.
*Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.*

(PUBLISH)

[6] Counsel for R.R. certified that he provided R.R. with a copy of his brief and informed her that she had the right to file her own brief. R.R. was given time to file her own brief, but the time for filing such a brief has expired and we have received no pro se brief.