

NO. 12-19-00416-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

<i>IN THE INTEREST OF</i>	§	<i>APPEAL FROM THE 294TH</i>
<i>A.N.R., A.F.R., AND K.R.,</i>	§	<i>JUDICIAL DISTRICT COURT</i>
<i>CHILDREN</i>	§	<i>VAN ZANDT COUNTY, TEXAS</i>

***MEMORANDUM OPINION
PER CURIAM***

A.L.R. and F.M. appeal the termination of their parental rights. Each of their respective counsels have filed briefs 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

A.L.R. and F.M. are the parents of A.N.R., A.F.R., and K.R. On September 4, 2018, the Department of Family and Protective Services (the Department) filed an original petition for protection of the children, for conservatorship, and for termination of A.L.R.'s and F.M.'s parental rights. The Department was appointed temporary managing conservator of the children, and the parents were allowed limited access to, and possession of, the children.

The morning of the final trial, A.L.R., the children's father, executed an affidavit of relinquishment of parental rights. He testified before the trial court that he felt relinquishing his parental rights was in his children's best interest partially because of his present incarceration. At the conclusion of testimony regarding A.L.R.'s affidavit of relinquishment, the trial court found, by clear and convincing evidence, that (1) A.L.R. filed an affidavit of relinquishment of parental rights in accordance with Section 161.001(b)(1)(K) of the Texas Family Code; and (2) termination of the parent-child relationship between A.L.R. and the children was in the children's best interest.

Based on these findings, the trial court ordered that the parent-child relationship between A.L.R. and the children be terminated.

F.M., the children's mother, did not appear for trial. As a result, the trial court discharged the jury and heard the matter in a bench trial. The evidence at trial showed that F.M. tested positive for methamphetamine prior to the Department filing its petition. Two of the three children also tested positive for methamphetamine. F.M. refused to comply with the Department's requests for drug testing while the case was pending. The evidence also showed that F.M. failed to comply with the Department's family service plan and had not visited or contacted the children for approximately ten months prior to trial. At the conclusion of the trial on the merits, the trial court found, by clear and convincing evidence that F.M. engaged in one or more of the acts or omissions necessary to support termination of her parental rights under subsections (D), (N), and (O) of Texas Family Code Section 161.001(b)(1). The trial court also found that termination of the parent-child relationship between F.M. and the children was in the children's best interest. Based on these findings, the trial court ordered that the parent-child relationship between F.M. and the children be terminated. This appeal followed.

ANALYSIS PURSUANT TO *ANDERS V. CALIFORNIA*

F.M.'s and A.L.R.'s respective counsels filed briefs in compliance with *Anders*, stating that they each diligently reviewed the appellate record and are of the opinions that the record reflects no reversible error and that there is no error upon which an appeal can be predicated. This Court 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*, counsels' briefs present 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.).

As a reviewing court, we must conduct an independent evaluation of the record to determine whether counsels are 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. We have carefully reviewed the appellate record and counsels' briefs. We find nothing in the record that

might arguably support the appeal.¹ See *Taylor v. Tex. Dep't of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646–47 (Tex. App.—Austin 2005, pet. denied).

DISPOSITION

We agree with A.L.R.'s and F.M.'s counsels that the appeals are wholly frivolous. However, we deny counsels' requests to withdraw. See *In re P.M.*, 520 S.W.3d 24, 27 (Tex. 2016). In *In re P.M.*, the Texas Supreme Court 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." *Id.* Accordingly, counsels' obligations to F.M. and A.L.R. have not yet been discharged. See *id.* If A.L.R. or F.M., 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.*; see *A.C. v. Tex. Dep't of Family & Protective Servs.*, No. 03–16–00543–CV, 2016 WL 5874880, at *1 n.2 (Tex. App.—Austin Oct. 5, 2016, no pet.) (mem. op.). Accordingly, we *affirm* the trial court's judgment. See TEX. R. APP. P. 43.2.

Opinion delivered June 5, 2020.

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

¹ In compliance with *Kelly v. State*, counsels for A.L.R. and F.M. certified that they provided A.L.R. and F.M. with a copy of the brief, informed each of them that they had the right to file their own briefs, and took concrete measures to facilitate their reviews of the appellate record. 436 S.W.3d 313, 319 (Tex. Crim. App. 2014); *Matter of C.F.*, No. 03-18-00008-CV, 2018 WL 2750007, at *1 (Tex. App.—Austin June 8, 2018, no pet.). A.L.R. and F.M. were given the time to file their own briefs, but the time for filing such briefs has expired and we have received no pro se briefs.



**COURT OF APPEALS
TWELFTH COURT OF APPEALS DISTRICT OF TEXAS
JUDGMENT**

JUNE 5, 2020

NO. 12-19-00416-CV

**IN THE INTEREST OF A.N.R.,
A.F.R., AND K.R., CHILDREN**

Appeal from the 294th District Court
of Van Zandt County, Texas. (Tr.Ct.No.18-00219)

THIS CAUSE came to be heard on the appellate record and the briefs filed herein, and the same being considered, because it is the opinion of this court that there was no error in the judgment of the court below, it is ORDERED, ADJUDGED and DECREED by this court that the trial court's judgment be **affirmed**; and that this decision be certified to the court below for observance.

*By per curiam opinion.
Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*