

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In the Interest of Q.M.C., a Child

No. 04-22-00152-CV · No. 04-22-00152-CV · Decided May 24, 2022

SUMMARY

The Fourth Court of Appeals of San Antonio addresses appointed counsel’s Anders brief and motion to withdraw in an appeal concerning termination of parental rights. The court granted the appellant until June 13, 2022, to file a pro se brief, permitted the State to respond if necessary, and held counsel’s withdrawal motion in abeyance.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Luz Elena D. Chapa
JURISDICTION	Texas
DECIDED	May 24, 2022
DOCKET	04-22-00152-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order terminating parental rights; appointed appellate counsel filed an Anders brief and motion to withdraw, asserting that no meritorious issues existed.
PRECEDENTIAL VALUE	Published

TOPICS

- appellate procedure
- termination of parental rights
- parental rights
- family law procedure

PRACTICE AREAS

- appellate procedure
- family law
- termination of parental rights

QUESTIONS PRESENTED

1. Whether the court should allow appointed appellate counsel to withdraw under Anders procedures before the appellant's opportunity to review the record and file a pro se brief had expired.

HOLDINGS

1. The court ordered appellant to file any pro se brief by June 13, 2022, authorized the State to file a responsive brief if a timely pro se brief was filed, and held counsel's motion to withdraw in abeyance pending further order.

FACTUAL BACKGROUND

The appeal concerns a proceeding involving Q.M.C., a child, and an order terminating parental rights. Appointed appellate counsel concluded that no meritorious appellate issues existed and filed an Anders brief and motion to withdraw. Counsel represented that appellant had been informed of her right to review the record and file a pro se brief, but appellant had not yet filed the provided motion to request the record.

PROCEDURAL HISTORY

The appeal arose from the 57th Judicial District Court of Bexar County, Texas, in a parental-rights termination proceeding. On May 19, 2022, appointed appellate counsel filed an Anders brief and motion to withdraw and certified compliance with notice and record-access requirements. The court ordered the appellant to file any pro se brief by June 13, 2022, permitted the State to respond if a pro se brief was filed, and held the motion to withdraw in abeyance.

DISPOSITION

other

CASES CITED

- Anders v. California, 386 U.S. 738 (1967)
- Kelly v. State, 436 S.W.3d 313, 319 (Tex. Crim. App. 2014)
- In re P.M., 520 S.W.3d 24, 27 n.10 (Tex. 2016) (per curiam)

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas May 24, 2022 No. 04-22-00152-CV IN THE INTEREST OF Q.M.C., A CHILD From the 57th Judicial District Court, Bexar County, Texas Trial Court No. 2021PA00761 Honorable Charles E. Montemayor, Judge Presiding ORDER On May 19, 2022, appellant's court-appointed attorney filed a brief and motion to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967), in which he asserts there are no meritorious issues to raise on appeal.

Counsel certifies he served copies of the brief and motion on appellant, informed appellant of her right to review the record and file her own brief, provided appellant with a form for requesting the record, and explained to appellant the procedure for obtaining the record. See Kelly v. State, 436 S.W.3d 313, 319 (Tex. Crim. App. 2014); In re P.M., 520 S.W.3d 24, 27 n.10 (Tex.

2016) (per curiam) (applying Anders procedures in appeal from order terminating parental rights). As of the date of this order, appellant has not filed the record-request motion provided to her by her counsel. If appellant desires to file a pro se brief, we order she do so by June 13, 2022. At this time, the State has filed a notice waiving its right to file a brief in this case unless appellant files a pro se brief.

If appellant files a timely pro se brief, the State may file a responsive brief no later than twenty days after appellant's pro se brief is filed in this court. We further order the motion to withdraw filed by appellant's counsel held in abeyance pending further order of the court.

Luz Elena D. Chapa, Justice IN WITNESS WHEREOF,
I have hereunto set my hand and affixed the seal of the said court on this 24th day of May, 2022.

Michael A. Cruz, Clerk of Court