

# COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

## In the Interest of I.S. and J.L., Jr., Children

No. 05-19-00709-CV · No. 05-19-00709-CV · Decided July 8, 2019

### SUMMARY

The Texas Court of Appeals, Fifth District at Dallas, ordered the trial court to appoint appellate counsel for an indigent parent whose parental rights had been terminated. The court also required supplemental records concerning jurisdiction and directed appellate counsel to verify whether a reporter's record would be requested.

### CASE DETAILS

|                       |                                                                                                     |
|-----------------------|-----------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Texas, Fifth District at Dallas                                                 |
| WRITING FOR THE COURT | Ken Molberg                                                                                         |
| JURISDICTION          | Texas                                                                                               |
| DECIDED               | July 8, 2019                                                                                        |
| DOCKET                | 05-19-00709-CV                                                                                      |
| DISPOSITION           | other                                                                                               |
| PROCEDURAL POSTURE    | Interlocutory appellate order in an appeal from a judgment terminating appellant's parental rights. |
| PRECEDENTIAL VALUE    | unknown                                                                                             |
| PARTIES               | Appellant, the parent whose parental rights were terminated                                         |

### TOPICS

termination of parental rights   appellate procedure   appellate jurisdiction   family law procedure

### PRACTICE AREAS

family law   juvenile law   appellate procedure

### QUESTIONS PRESENTED

1. Whether an indigent parent whose parental rights have been terminated must be provided appellate counsel.
2. Whether the appellate record should be supplemented with specified trial-court documents and verification concerning the reporter's record so the court can determine its jurisdiction.

## HOLDINGS

1. An indigent parent is presumed to remain indigent through the appeal absent changed circumstances and must be provided appointed appellate counsel.
2. The court may require supplementation of the clerk's record and verification regarding the reporter's record when necessary to determine its appellate jurisdiction.

## KEY QUOTATIONS

*“Because appellant is presumed to remain indigent through any appeals absent changed circumstances, appellate counsel must be appointed.”*

## FACTUAL BACKGROUND

The trial court entered a judgment terminating appellant's parental rights to her children. Appellant was indigent, and the record showed that trial counsel had been released from further obligation but did not show that appellate counsel had been appointed. The appellate record was also incomplete, including missing trial-related orders and reports, and appellant had not requested the reporter's record.

## PROCEDURAL HISTORY

The appeal followed the trial court's judgment terminating appellant's parental rights to her children in Dallas County cause number DF-14-10695. Appellant was indigent, and trial counsel filed a motion to withdraw and appoint appellate counsel. Because the record did not show that appellate counsel had been appointed, the court ordered the trial court to appoint counsel and directed supplementation of the clerk's and reporter's records so the appellate court could determine its jurisdiction.

## DISPOSITION

other

## REMAND INSTRUCTIONS

The trial court was ordered to appoint appellate counsel no later than July 15, 2019, if counsel had not already been appointed. A supplemental clerk's record containing the appointment order and specified trial-court documents was ordered filed by July 18, 2019. Appellate counsel was ordered to file by July 22, 2019, written verification that the reporter's record had been requested or would not be requested. The deadline for appellant's merits brief would be set after that verification.

## CASES CITED

- In re P.M., 520 S.W.3d 24, 26 (Tex. 2016)

## OPINION

PER CURIAM.

Order entered July 8, 2019 In The Court of Appeals Fifth District of Texas at Dallas No. 05-19-00709-CV IN THE INTEREST OF I.S., ET AL., CHILDREN On Appeal from the 254th Judicial District Court Dallas County, Texas Trial Court Cause Nos. DF-14-10695 ORDER This appeal follows the trial court's judgment terminating appellant's parental rights to her children.

The clerk's record reflects trial counsel for appellant, who is indigent, filed a motion to withdraw and appoint appellate counsel. Although the record reflects the trial court has "released" counsel "from further obligation in this cause," the record does not reflect appellate counsel has been appointed.

Because appellant is presumed to remain indigent through any appeals absent changed circumstances, appellate counsel must be appointed. See *In re P.M.*, 520 S.W.3d 24, 26 (Tex. 2016) (citation omitted). Accordingly, we ORDER the trial court to appoint counsel, if counsel has not already been appointed, to represent appellant on appeal. Counsel shall be appointed no later than July 15, 2019, and a supplemental clerk's record containing the appointment order shall be filed no later than July 18, 2019.

So that the Court may determine its jurisdiction, the supplemental clerk's record shall also contain a copy of the associate judge's July 24, 2014 and September 4, 2014 reports; the June 13, 2016 order setting hearing; any orders resulting from or that followed the September 22, 2016 bench trial and August 21, 2017 pretrial hearing; the associate judge's September 20, 2017 report; and the September 26, 2017 "Petition for CPS in a Pending Action." We note the reporter's record has not been filed because appellant has not requested it.

We ORDER appellant's appellate counsel to file, no later than July 22, 2019, written verification that either the reporter's record has been requested or will not be requested. The deadline for filing appellant's brief on the merits will be set once the verification is filed.

We DIRECT the Clerk of the Court to send a copy of this order to the trial court; Dallas County Clerk Felicia Pitre; Janet Saavedra, Official Court Reporter for the 254th Judicial District Court; and the parties, including trial counsel. /s/ KEN MOLBERG JUSTICE