

COURT OF APPEALS OF TEXAS, SEVENTH DISTRICT AT AMARILLO

In the Interest of J.D., a Child

No. 07-23-00091-CV (Tex. App.—Amarillo July 25, 2023) · No. 07-23-00091-CV · Decided July 25, 2023

SUMMARY

The Texas Court of Appeals for the Seventh District affirmed the termination of Mother’s and Father’s parental rights to J.D. The court held that legally and factually sufficient evidence supported the statutory predicate grounds for termination and, as to Mother, the best-interest finding. The opinion discusses parental drug use, domestic violence, compliance with court-ordered services, endangerment, and the child’s need for a stable placement.

CASE DETAILS

COURT	Court of Appeals of Texas, Seventh District at Amarillo
WRITING FOR THE COURT	Judy C. Parker; Quinn, C.J.; Parker, J.; Yarbrough, J.
JURISDICTION	Texas
DECIDED	July 25, 2023
DOCKET	07-23-00091-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother and Father appealed a bench-trial judgment terminating their parental rights to J.D. Mother challenged the sufficiency of the evidence supporting predicate grounds under Texas Family Code section 161.001(b)(1)(D), (E), (O), and (P), and the best-interest finding. Father challenged the sufficiency of the evidence supporting predicate grounds under section 161.001(b)(1)(B), (C), (E), (N), and (O).
STANDARD OF REVIEW	Termination findings are reviewed for legal and factual sufficiency under the clear-and-convincing-evidence standard. For legal sufficiency, the court views evidence in the light most favorable to the finding and asks whether a reasonable factfinder could form a firm belief or conviction that the finding is true. For factual sufficiency, the court considers the entire record and determines whether disputed evidence is so significant that a reasonable factfinder could not form a firm belief or conviction. The appellate court defers to the factfinder’s credibility determinations and resolution of conflicting evidence.

PRECEDENTIAL VALUE	published
PARTIES	Mother, Father v. Texas Department of Family and Protective Services

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QUESTIONS PRESENTED

1. Whether legally and factually sufficient evidence supported termination of Mother's parental rights under Texas Family Code section 161.001(b)(1)(D) and (E).
2. Whether legally and factually sufficient evidence supported the finding that termination of Mother's parental rights was in J.D.'s best interest.
3. Whether legally and factually sufficient evidence supported termination of Father's parental rights under section 161.001(b)(1)(E).
4. Whether the court needed to address Father's challenges to the remaining predicate grounds after affirming the subsection (E) finding.

HOLDINGS

1. The evidence was legally and factually sufficient to support findings that Mother knowingly placed or knowingly allowed J.D. to remain in conditions or surroundings that endangered her well-being and engaged in a course of conduct that endangered J.D.'s physical or emotional well-being.
2. The evidence was legally and factually sufficient to establish that termination of Mother's parental rights was in J.D.'s best interest.
3. The evidence was legally and factually sufficient to support a finding that Father engaged in a voluntary, deliberate, and conscious course of conduct that endangered J.D.'s physical or emotional well-being.
4. The court did not need to address Father's challenges to the findings under section 161.001(b)(1)(B), (C), (N), and (O) because the subsection (E) finding was sufficient, and Father did not challenge the best-interest finding.

KEY QUOTATIONS

“Both elements must be established and termination may not be based solely on the best interest of the child as determined by the trier of fact.” (at 9)

“Additionally, termination under subsection (E) must be based on more than a single act or omission; a voluntary, deliberate, and conscious course of conduct by the parent is required.” (at 13)

“As an active drug user, Mother’s course of conduct demonstrates that she is “not willing and able to provide the child with a safe environment—a primary consideration in determining the child’s best interest.”” (at 16)

FACTUAL BACKGROUND

The Department became involved after evidence that Mother used methamphetamine and marijuana during pregnancy and that both parents had substance-abuse and domestic-violence histories. Mother continued testing positive for methamphetamine and marijuana during the case, failed to complete some court-ordered services and drug screens, and tested positive for methamphetamine when another child was born. Father had prior convictions for family-violence assault and drug possession, was involved in domestic-violence incidents with Mother, admitted recent marijuana use, failed to participate in court-ordered services, and had little contact with J.D. J.D. experienced developmental delays associated with in-utero methamphetamine exposure but was doing well in a stable foster placement with which she was strongly bonded.

PROCEDURAL HISTORY

The Texas Department of Family and Protective Services petitioned for conservatorship and termination after becoming involved with J.D. shortly after her birth. Following an adversary hearing, the trial court appointed the Department temporary managing conservator and placed J.D. in foster care. After a bench trial in January and February 2023, the trial court terminated both parents' rights, appointed the Department permanent managing conservator, and found termination in J.D.'s best interest. The parents timely appealed, and the court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- In re J.F.C., 96 S.W.3d 256, 264, 266 (Tex. 2002)
- In re K.M.L., 443 S.W.3d 101, 113 (Tex. 2014)
- Santosky v. Kramer, 455 U.S. 745, 758-59 (1982)
- In re M.S., 115 S.W.3d 534, 547 (Tex. 2003)
- Holick v. Smith, 685 S.W.2d 18, 20 (Tex. 1985)
- In re A.V., 113 S.W.3d 355, 361-63 (Tex. 2003)
- In re J.W.T., 872 S.W.2d 189, 195 (Tex. 1994)
- Tex. Dep't of Human Servs. v. Boyd, 727 S.W.2d 531, 533 (Tex. 1987)
- In re K.C.B., 280 S.W.3d 888, 894-95 (Tex. App.—Amarillo 2009, pet. denied)
- In re R.D.S., 902 S.W.2d 714, 716 (Tex. App.—Amarillo 1995, no writ)
- In re B.R., 950 S.W.2d 113, 121 (Tex. App.—El Paso 1997, no writ)
- In re J.P.B., 180 S.W.3d 570, 573 (Tex. 2005) (per curiam)
- J.S. v. Tex. Dep't of Family & Protective Servs., 511 S.W.3d 145, 159 (Tex. App.—El Paso 2014, no pet.)

- In re B.S.T., 977 S.W.2d 481, 484 (Tex. App.—Houston [14th Dist.] 1998, no pet.)
- Doyle v. Tex. Dep't of Protective & Regulatory Servs., 16 S.W.3d 390, 394-95 (Tex. App.—El Paso 2000, pet. denied)
- In re W.S., 899 S.W.2d 772, 776 (Tex. App.—Fort Worth 1995, no pet.)
- In re M.R.J.M., 280 S.W.3d 494, 502-03 (Tex. App.—Fort Worth 2009, no pet.)
- In re M.J.M.L., 31 S.W.3d 347, 350-51 (Tex. App.—San Antonio 2000, pet. denied)
- Dupree v. Tex. Dep't of Protective & Regulatory Servs., 907 S.W.2d 81, 84 (Tex. App.—Dallas 1995, no writ)
- In re E.P.C., 381 S.W.3d 670, 683 (Tex. App.—Fort Worth 2012, no pet.)
- In re B.C.S., 479 S.W.3d 918, 926-27 (Tex. App.—El Paso 2015, no pet.)
- In re N.G., 577 S.W.3d 230, 235-37 (Tex. 2019) (per curiam)
- In re A.B., 125 S.W.3d 769, 777 (Tex. App.—Texarkana 2003, pet. denied)
- In re J.T.G., 121 S.W.3d 117, 125 (Tex. App.—Fort Worth 2003, no pet.)
- In re B.W., No. 07-19-00248-CV, 2019 Tex. App. LEXIS 9845, at *8 (Tex. App.—Amarillo Nov. 12, 2019, no pet.) (mem. op.)
- In re H.G., No. 07-21-00278-CV, 2022 Tex. App. LEXIS 2687, at *20 (Tex. App.—Amarillo Apr. 25, 2022, pet. denied) (mem. op.)
- In re C.T.E., 95 S.W.3d 462, 466 (Tex. App.—Houston [1st Dist.] 2002, pet. denied)
- In re R.R., 209 S.W.3d 112, 116 (Tex. 2006)
- In re N.R.T., 338 S.W.3d 667, 677 (Tex. App.—Amarillo 2011, no pet.)
- In re K.C., 219 S.W.3d 924, 931 (Tex. App.—Dallas 2007, no pet.)
- In re J.M.T., 519 S.W.3d 258, 269 (Tex. App.—Houston [1st Dist.] 2017, pet. denied)
- In re A.C., 394 S.W.3d 633, 642 (Tex. App.—Houston [1st Dist.] 2012, no pet.)
- In re S.B., 207 S.W.3d 877, 887-88 (Tex. App.—Fort Worth 2006, no pet.)
- In re E.C.R., 402 S.W.3d 239, 249-50 (Tex. 2013)
- In re V.A., No. 07-17-00413-CV, 2018 Tex. App. LEXIS 1521, at *13 (Tex. App.—Amarillo Feb. 27, 2018, no pet.) (mem. op.)
- In re A.M., 495 S.W.3d 573, 581 (Tex. App.—Houston [1st Dist.] 2016, pet. denied)
- In re N.M.L., No. 07-17-00310-CV, 2018 Tex. App. LEXIS 607, at *14 (Tex. App.—Amarillo Jan. 19, 2018, pet. denied) (mem. op.)
- In re S.P., 509 S.W.3d 552, 558 (Tex. App.—El Paso 2016, no pet.)
- In re J.D., 436 S.W.3d 105, 119-20 (Tex. App.—Houston [14th Dist.] 2014, no pet.)
- In re S.R., 452 S.W.3d 351, 369 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)
- In re R.W., 129 S.W.3d 732, 738, 741 (Tex. App.—Fort Worth 2004, pet. denied)
- A.W. v. Tex. Dep't of Family & Protective Servs., No. 03-17-00048-CV, 2017 Tex. App. LEXIS 6509, at *7 (Tex. App.—Austin July 14, 2017, no pet.) (mem. op.)
- In re W.S.M., 107 S.W.3d 772, 773 (Tex. App.—Texarkana 2003, no pet.)
- In re D.C., No. 01-11-00387-CV, 2012 Tex. App. LEXIS 1638, at *25 (Tex. App.—Houston [1st Dist.] Mar. 1, 2012, pet. denied) (mem. op.)

- Jordan v. Dossey, 325 S.W.3d 700, 724 (Tex. App.—Houston [1st Dist.] 2010, pet. denied)
- In re E.M., 494 S.W.3d 209, 222 (Tex. App.—Waco 2015, pet. denied)
- In re U.H.R., No. 07-18-00318-CV, 2019 Tex. App. LEXIS 22, at *12-13 (Tex. App.—Amarillo Jan. 2, 2019, no pet.) (mem. op.)

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