

COURT OF APPEALS OF TEXAS, SEVENTH DISTRICT AT AMARILLO

In the Interest of E.G., a Child

No. 07-21-00271-CV (Tex. App.—Amarillo Mar. 4, 2022) · No. 07-21-00271-CV · Decided March 4, 2022

SUMMARY

The Texas Seventh Court of Appeals reviewed an accelerated appeal from the termination of Mother’s and Father’s parental rights to E.G. The parents challenged the scope of de novo review, and Mother also challenged the sufficiency of the evidence supporting statutory predicate grounds and the child’s best interest. The court affirmed the trial court’s judgment terminating both parents’ rights.

CASE DETAILS

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| COURT                 | Court of Appeals of Texas, Seventh District at Amarillo                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Quinn, C.J.; Pirtle, J.; Parker, J.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Texas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DECIDED               | March 4, 2022                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DOCKET                | 07-21-00271-CV                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Accelerated appeal from a judgment terminating Mother’s and Father’s parental rights to E.G. Mother and Father argued that the referring trial court exceeded the scope of de novo review. Mother also challenged the legal and factual sufficiency of the evidence supporting the predicate termination grounds and the finding that termination was in E.G.’s best interest.                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| STANDARD OF REVIEW    | Termination findings are reviewed under legal and factual sufficiency standards using the clear-and-convincing-evidence standard. For legal sufficiency, the court views the evidence in the light most favorable to the finding, assumes disputed facts were resolved in favor of the finding when a reasonable factfinder could do so, and disregards evidence a reasonable factfinder could have disbelieved. For factual sufficiency, the court considers the entire record and determines whether disputed evidence is so significant that a reasonable factfinder could not have formed a firm belief or conviction. The appellate court defers to the factfinder’s credibility determinations. The scope of a de novo hearing is reviewed by examining whether the request timely specified the issues presented. |

|                           |                                                                                                        |
|---------------------------|--------------------------------------------------------------------------------------------------------|
| <b>PRECEDENTIAL VALUE</b> | Published Texas Court of Appeals opinion; precedential value is not otherwise specified in the source. |
| <b>PARTIES</b>            | Mother, Father v. Texas Department of Family and Protective Services                                   |

## TOPICS

termination of parental rights   parental rights   family law procedure   appellate procedure   standard of review

## PRACTICE AREAS

family law   termination of parental rights   appellate procedure

## QUESTIONS PRESENTED

1. Whether the referring trial court exceeded the scope of de novo review by considering termination of parental rights when the associate judge had ordered a monitored return.
2. 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).
3. Whether legally and factually sufficient evidence supported the finding that termination of Mother's parental rights was in E.G.'s best interest.

## HOLDINGS

1. The referring trial court did not exceed the scope of de novo review because the intervenors timely requested a de novo hearing and specifically identified termination of Mother's and Father's parental rights, conservatorship, and related issues for presentation to the referring court.
2. Legally and factually sufficient evidence supported the trial court's findings that Mother knowingly placed or knowingly allowed E.G. to remain in conditions or surroundings that endangered E.G.'s physical or emotional well-being and engaged in conduct or knowingly placed E.G. with persons whose conduct endangered E.G.'s physical or emotional well-being.
3. Legally and factually sufficient evidence supported the finding that termination of Mother's parental rights was in E.G.'s best interest.

## KEY QUOTATIONS

*"Because the Intervenors' request was timely filed and specifically identified the issues to be presented, we conclude that the issue of termination of parental rights was properly before the referring court."* (18)

*"Thus, subsection (D) addresses the child's surroundings and environment rather than parental misconduct, which is the subject of subsection (E)."* (20)

*"We conclude the evidence is legally and factually sufficient to establish a firm conviction in the mind of the trial court that termination of Mother's parental rights is in the best interest of E.G."* (26)

## FACTUAL BACKGROUND

The Department removed seven-month-old E.G. after Mother exhibited severe mental-health symptoms, including hallucinations, paranoia, disorganized behavior, and an inability to safely care for E.G. Mother later brutally assaulted the maternal grandmother, was found incompetent to stand trial, and received treatment for psychosis, depression, and suicidal ideation. Father had a lengthy history of methamphetamine use, criminal convictions, parole violations, and relapses, including positive drug tests during the termination proceedings. Despite service-plan requirements and Department warnings, Mother continued her relationship with Father and contemplated relying on him as E.G.'s primary caregiver. E.G. was thriving in a stable, drug-free placement with her maternal aunt and uncle, who intended to adopt her.

## PROCEDURAL HISTORY

The Department removed E.G. from Mother's care, obtained temporary managing conservatorship, and filed a termination petition. After proceedings before an associate judge, the associate judge ordered a monitored return. Maternal aunt and uncle timely requested a de novo hearing and identified termination, conservatorship, and related issues for review. The referring trial court conducted the de novo hearing, considered the prior record, terminated both parents' rights, and appointed the Department permanent managing conservator. 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, 361-62 (Tex. 2003)
- 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)
- In re B.C.S., 479 S.W.3d 918, 926-27 (Tex. App.—El Paso 2015, no pet.)
- In re E.C.R., 402 S.W.3d 239, 249-50 (Tex. 2013)
- In re R.R., 209 S.W.3d 112, 116 (Tex. 2006)
- In re C.T.E., 95 S.W.3d 462, 466 (Tex. App.—Houston [1st Dist.] 2002, pet. denied)
- 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 N.G., 577 S.W.3d 230, 235-37 (Tex. 2019) (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 N.K., 399 S.W.3d 322, 330-31 (Tex. App.—Amarillo 2013, 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.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 R.W., 129 S.W.3d 732, 739 (Tex. App.—Fort Worth 2004, pet. denied)
- In re P.W., 579 S.W.3d 713, 727 (Tex. App.—Houston [14th Dist.] 2019, no pet.)
- In re J.J., No. 07-13-00117-CV, 2013 Tex. App. LEXIS 11194, at \*12 (Tex. App.—Amarillo Aug. 29, 2013, no pet.) (mem. op.)
- In re C.V.L., 591 S.W.3d 734, 751 (Tex. App.—Dallas 2019, pet. denied)
- In re M.P., No. 02-14-00032-CV, 2014 Tex. App. LEXIS 8689, at \*54-55 (Tex. App.—Fort Worth Aug. 7, 2014, no pet.) (mem. op.) (per curiam)
- In re L.R., 324 S.W.3d 885, 890 n.5 (Tex. App.—Austin 2010, orig. proceeding)

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