

COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS

In the Interest of D.S., D.S.M. aka D.M., D.R.K., Children

In the Interest of D.S., D.S.M. aka D.M., D.R.K., Children · No. 01-14-00092-CV; 01-14-00097-CV; 01-14-00098-CV · Decided May 28, 2014

SUMMARY

The First Court of Appeals of Texas affirmed the trial court's orders terminating Ebonee Shantrell Miles's parental rights to three children. The court held that the Anders procedures applied, agreed that the appeals were frivolous and without merit, and granted appointed counsel's motion to withdraw.

CASE DETAILS

COURT	Court of Appeals for the First District of Texas
WRITING FOR THE COURT	Justice Keyes; Justice Bland; Justice Brown
JURISDICTION	Texas
DECIDED	May 28, 2014
DOCKET	01-14-00092-CV; 01-14-00097-CV; 01-14-00098-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from final orders terminating the appellant's parental rights to three minor children. Appointed appellate counsel filed an Anders brief and a motion to withdraw, asserting that the appeals were frivolous and presented no arguable grounds for reversal.
STANDARD OF REVIEW	Independent review of the entire record and appointed counsel's Anders brief to determine whether the appeal presents any nonfrivolous or arguable grounds for reversal.
PRECEDENTIAL VALUE	published
PARTIES	Ebonee Shantrell Miles v. Department of Family and Protective Services

TOPICS

[termination of parental rights](#) [parental rights](#) [family law procedure](#) [appellate procedure](#)

PRACTICE AREAS

[family law](#) [parental rights](#) [termination of parental rights](#) [appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the Anders procedures apply to an appeal from an order terminating parental rights when appointed appellate counsel concludes that no nonfrivolous issues exist.
2. Whether independent review of the records revealed any arguable grounds for reversal of the termination judgments.
3. Whether appointed counsel's motion to withdraw should be granted after filing an Anders brief and complying with the required notice procedures.

HOLDINGS

1. The procedures established in *Anders v. California* apply to an appeal from a trial court order terminating parental rights when appointed appellate counsel concludes that there are no nonfrivolous issues to assert.
2. The appeals were frivolous and without merit, and the trial court's judgments terminating parental rights were affirmed.

FACTUAL BACKGROUND

The trial court entered final orders terminating Miles's parental rights to her three minor children, D.S., D.S.M. aka D.M., and D.R.K. The appellate record was reviewed by appointed counsel, who concluded that the appeals were frivolous and without merit. The appellate court independently reviewed the records and agreed with counsel's assessment.

PROCEDURAL HISTORY

The 312th District Court of Harris County entered final orders terminating Ebonee Shantrell Miles's parental rights to D.S., D.S.M. aka D.M., and D.R.K. Miles appealed in three appellate causes. Her appointed counsel filed an Anders brief and motion to withdraw; Miles did not file a response. After independently reviewing the record and brief, the Court of Appeals affirmed the trial court's judgments and granted counsel's motion to withdraw.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967)
- *In re D.D.*, 279 S.W.3d 849 (Tex. App.—Dallas 2009, pet. denied)
- *In re D.E.S.*, 135 S.W.3d 326 (Tex. App.—Houston [14th Dist.] 2004, no pet.)
- *In re K.D.*, 127 S.W.3d 66 (Tex. App.—Houston [1st Dist.] 2003, no pet.)

OPINION

PER CURIAM.

Opinion issued May 28, 2014 In The Court of Appeals For The First District of Texas NO. 01-14-00092-CV NO. 01-14-00097-CV NO. 01-14-00098-CV IN THE INTEREST OF D.S., D.S.M. AKA D.M., D.R.K., CHILDREN On Appeal from the 312th District Court Harris County, Texas Trial Court Cause Nos. 2012-44551, 2012-03840J, 2010-787221 MEMORANDUM OPINION 1 Appellate cause number 01-14-00092-CV; trial court cause number 2012-44551.

Appellate cause number 01-14-00097-CV; trial court cause number 2012-03840J. Appellate cause number 01-14-00098-CV; trial court cause number 2010-78722. Appellant, Ebonee Shantrell Miles, appeals the trial court's final orders terminating her parental rights to the three minor children, D.S., D.S.M. aka D.M., and D.R.K. Appellant's appointed counsel has filed a motion to withdraw, along with an Anders brief, asserting that the appeals are without merit and that there are no arguable grounds for reversal.

See *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967). We affirm the trial court's judgments and grant counsel's motion to withdraw. The procedures set forth in *Anders* are applicable to an appeal from a trial court's order terminating parental rights when, as here, the appellant's appointed appellate counsel concludes that there are no non-frivolous issues to assert on appeal.

See *In re D.D.*, 279 S.W.3d 849, 849–50 (Tex. App.—Dallas 2009, pet. denied); *In re D.E.S.*, 135 S.W.3d 326, 329 (Tex. App.—Houston [14th Dist.] 2004, no pet.); *In re K.D.*, 127 S.W.3d 66, 67 (Tex. App.—Houston [1st Dist.] 2003, no pet.). Counsel has filed an Anders brief in which he concludes that, after a thorough review of the record, appellant's appeals of the termination of her parental rights are frivolous and without merit.

See *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *In re D.E.S.*, 135 S.W.3d at 327, 330; *In re K.D.*, 127 S.W.3d at 67. Counsel has certified that he delivered a copy of the brief to appellant and has 2 informed appellant of her right to examine the appellate records and to file a response. See *In re K.D.*, 127 S.W.3d at 67. Appellant has not filed a response.

We have independently reviewed the entire record in each appeal and counsel's Anders brief. See *Anders*, 386 U.S. at 744, 87 S. Ct. at 1400; *In re D.E.S.*, 135 S.W.3d at 330; *In re K.D.*, 127 S.W.3d at 67. We agree with counsel's assessment that the appeals are frivolous and without merit.

Accordingly, we affirm the judgments of the trial court and grant counsel's motion to withdraw.² Attorney Tristan H. Longino must immediately send the notice required by Texas Rule of Appellate Procedure 6.5(c) and file a copy of the notice with the Clerk of this Court. See TEX. R. APP. P. 6.5(c). PER CURIAM Panel consists of Justices Keyes, Bland, and Brown.

² Appointed counsel still has a duty to inform appellant of the result of these appeals and notify appellant that she may, on her own, pursue petitions for review in the Supreme Court of Texas. See *In re K.D.*, 127 S.W.3d 66, 68 n.3 (Tex. App.—Houston [1st Dist.] 2003, no pet.). ³

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