

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

In the Interest of M.D.C., II, et al. Children

No. 04-20-00606-CV · No. 04-20-00606-CV · Decided January 29, 2021

SUMMARY

The Fourth Court of Appeals of San Antonio issued an order in an accelerated appeal from an order terminating parental rights. Because appointed counsel filed an Anders brief and a motion to withdraw, the court gave the appellant twenty days to file a pro se brief and held the motion to withdraw in abeyance.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Patricia O. Alvarez, Justice
JURISDICTION	Texas
DECIDED	January 29, 2021
DOCKET	04-20-00606-CV
DISPOSITION	other
PROCEDURAL POSTURE	Accelerated appeal from an order terminating Appellant's parental rights. Appellant's court-appointed attorney filed an Anders brief and a motion to withdraw.
PRECEDENTIAL VALUE	Published order; precedential status indicated by the provided metadata
PARTIES	Appellant v. The State

TOPICS

termination of parental rights

parental rights

appellate procedure

family law procedure

civil procedure

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

- Whether, in an accelerated parental-rights-termination appeal in which appointed counsel filed an Anders brief and moved to withdraw, Appellant should be afforded an opportunity to file a pro se brief

before the motion to withdraw is decided.

HOLDINGS

1. When appointed counsel files an Anders brief and motion to withdraw, the appellant must be informed of the right to file a pro se brief and given an opportunity to do so before the court rules further on the withdrawal motion.

KEY QUOTATIONS

“If Appellant desires to file a pro se brief, we ORDER Appellant to do so within TWENTY DAYS of the date of this order.”

“The motion to withdraw is HELD IN ABEYANCE pending further order of this court.”

FACTUAL BACKGROUND

The trial court entered an order terminating Appellant's parental rights concerning the children identified as M.D.C., II, et al. The record does not contain substantive facts concerning the underlying termination because this order addresses only the Anders appellate procedure.

PROCEDURAL HISTORY

The 166th Judicial District Court of Bexar County entered an order terminating Appellant's parental rights. On appeal, appointed counsel filed an Anders brief asserting that the appeal was frivolous and without merit and moved to withdraw. The court ordered Appellant to file any pro se brief within twenty days and held the motion to withdraw in abeyance.

DISPOSITION

other

CASES CITED

- Anders v. California, 386 U.S. 738, 744 (1967)
- In re R.R., No. 04-03-00096-CV, 2003 WL 21157944, at *4 (Tex. App.—San Antonio May 21, 2003, no pet.)

OPINION

PER CURIAM.

FILE COPY Fourth Court of Appeals San Antonio, Texas January 29, 2021 No. 04-20-00606-CV IN THE INTEREST OF M.D.C., II, ET AL CHILDREN From the 166th Judicial District Court, Bexar County, Texas Trial Court No. 2019-PA-00280 Honorable Peter A. Sakai, Judge Presiding ORDER In this accelerated appeal of the trial court's order terminating Appellant's parental rights, Appellant's court-appointed attorney filed an Anders brief.

In the brief, counsel states that after a professional evaluation of the record, counsel finds no reversible error, concludes the appeal is without merit and frivolous, and counsel attached a motion to withdraw. See *Anders v. California*, 386 U.S. 738, 744 (1967); *In re R.R.*, No. 04-03-00096-CV, 2003 WL 21157944, at *4 (Tex. App.—San Antonio May 21, 2003, no pet.) (applying *Anders* procedure in a parental rights termination appeal).

Counsel informed Appellant of his right to file a pro se brief and to request a free copy of the appellate record. Counsel provided Appellant with a form request for a free copy of the appellate record, and the form lacks only Appellant's contact information, date, and signature.

The State filed a letter waiving its right to file an appellee's brief unless Appellant files a pro se brief. If Appellant desires to file a pro se brief, we ORDER Appellant to do so within TWENTY DAYS of the date of this order. See TEX. R. APP. P. 38.6(a). If Appellant files a pro se brief, the State may file a responsive brief not later than TWENTY DAYS after Appellant's pro se brief is filed in this court.

See id. R. 38.6(b). The motion to withdraw is HELD IN ABEYANCE pending further order of this court. _____ Patricia O. Alvarez, Justice FILE COPY IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said court on this 29th day of January, 2021. _____ MICHAEL A. CRUZ, Clerk of Court