

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

K. M.-J. v. Texas Department of Family and Protective Services

K. M.-J. · No. 03-12-00159-CV · Decided June 27, 2012

SUMMARY

The Texas Court of Appeals, Third District, affirmed a decree terminating K.M.-J.'s parental rights to five children. The court held that the Anders-style appeal was frivolous based on evidence supporting statutory grounds for termination and the children's best interests, and it granted appointed counsel's motion to withdraw.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Jeff Rose, Justice; Chief Justice Jones; Justice Pemberton; Justice Rose
JURISDICTION	Texas
DECIDED	June 27, 2012
DOCKET	03-12-00159-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	K. M.-J. appealed a decree terminating her parental rights to five children. Her appointed attorney filed an Anders-style brief asserting that the appeal was frivolous and moved to withdraw. The Department concurred, and K. M.-J. filed no pro se brief.
STANDARD OF REVIEW	The opinion states that the appellate court reviewed the record to determine whether the Anders appeal was frivolous. It also recognized that the termination findings were required to be supported by clear and convincing evidence and that the jury was empowered to resolve conflicting testimony and credibility disputes.
PRECEDENTIAL VALUE	published
PARTIES	K. M.-J. v. Texas Department of Family and Protective Services

TOPICS

termination of parental rights

parental rights

appellate procedure

family law procedure

civil procedure

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether K. M.-J.'s Anders-style appeal from the decree terminating her parental rights was frivolous.
2. Whether the record supported termination of K. M.-J.'s parental rights under the statutory grounds submitted to the jury and the children's best interests.
3. Whether appointed counsel should be permitted to withdraw after determining that the appeal presented no nonfrivolous grounds for reversal or modification.

HOLDINGS

1. A trial court may involuntarily terminate a parent-child relationship only when clear and convincing evidence establishes at least one statutorily specified ground for termination and that termination is in the child's best interest.
2. The appeal was frivolous, and the decree terminating K. M.-J.'s parental rights to the five children was affirmed.
3. Appointed counsel's motion to withdraw was granted after the court independently reviewed the record and concluded that the appeal was frivolous.

KEY QUOTATIONS

“Based on our review of the record, we conclude that this appeal is frivolous. We affirm the termination of K.M-J.’s parental rights to the five children listed in the trial-court decree.” (4)

FACTUAL BACKGROUND

The Department had been involved with K. M.-J.'s children several times during the decade before their removal. The record included evidence of dangerous and unstable living circumstances, alleged physical abuse, exposure to sexual abuse, repeated moves among motels, shelters, residences, and friends' homes, and failure to maintain consistent contact with the Department. Department employees also testified that K. M.-J. did not consistently demonstrate appropriate parenting skills, meet the children's basic needs, pay child support, or provide a safe and appropriate home, although she disputed some of the testimony.

PROCEDURAL HISTORY

The Bell County District Court, 146th Judicial District, entered a decree terminating K. M.-J.'s parental rights to five children. The case reached the Third Court of Appeals through K. M.-J.'s notice of appeal. After independently reviewing the record, the appellate court determined that the appeal was frivolous, affirmed the termination decree, and granted appointed counsel's motion to withdraw.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738, 744 (1967)
- *Taylor v. Texas Dep't of Protective & Regulatory Servs.*, 160 S.W.3d 641, 646 (Tex. App.—Austin 2005, pet. denied)
- *In re M.C.*, 917 S.W.2d 268, 269 (Tex. 1996)
- *Holley v. Adams*, 544 S.W.2d 367, 371-72 (Tex. 1976)
- *In re C.H.*, 89 S.W.3d 17, 27 (Tex. 2002)
- *In re K.C.*, 219 S.W.3d 924, 931 (Tex. App.—Dallas 2007, no pet.)
- *Golden Eagle Archery, Inc. v. Jackson*, 116 S.W.3d 757, 761 (Tex. 2003)

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