

TENTH COURT OF APPEALS OF TEXAS

In the Interest of T.R.M., a Child

No. 10-20-00254-CV · No. No. 10-20-00254-CV · Decided December 16, 2020

SUMMARY

The Tenth Court of Appeals of Texas reviewed an Anders brief in an appeal from an order terminating Courtney B.'s parental rights to T.R.M. After independently examining the record and finding no meritorious issues, the court affirmed the trial court's termination order.

CASE DETAILS

COURT	Tenth Court of Appeals of Texas
WRITING FOR THE COURT	Chief Justice Tom Gray; Justice Davis; Justice Neill
JURISDICTION	Texas
DECIDED	December 16, 2020
DOCKET	No. 10-20-00254-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Courtney B. appealed an order terminating the parent-child relationship between her and T.R.M. Her appointed counsel filed an Anders brief asserting that the appeal presented no issues of arguable merit.
STANDARD OF REVIEW	Upon the filing of an Anders brief, the appellate court must independently examine the entire record to determine whether the appeal is frivolous and whether counsel correctly concluded that no non-frivolous issue exists.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is not expressly stated in the opinion text.
PARTIES	Courtney B.

TOPICS

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

PRACTICE AREAS

family law appellate procedure termination of parental rights

QUESTIONS PRESENTED

1. Whether appointed counsel complied with the Anders procedures in this termination-of-parental-rights appeal.
2. Whether independent review of the record disclosed any arguable or non-frivolous issue requiring reversal of the termination order.

HOLDINGS

1. The Anders procedures apply to appeals from orders terminating parental rights.
2. When an Anders brief is filed, the reviewing appellate court must independently examine the record to determine whether the appeal is frivolous.
3. The appeal was frivolous and presented no meritorious issue; the trial court's termination order was affirmed.

FACTUAL BACKGROUND

The trial court entered an order terminating Courtney B.'s parent-child relationship with T.R.M. Termination was based in part on Texas Family Code section 161.001(b)(1)(E) and the best interest of the child. Appointed counsel reviewed the record, including the sufficiency of the evidence, and concluded that no non-frivolous appellate issue existed.

PROCEDURAL HISTORY

The 74th District Court of McLennan County, Texas, terminated Courtney B.'s parental rights under Texas Family Code section 161.001. On appeal, appointed counsel filed an Anders brief, advised Courtney of her right to review the record and file a pro se response, and provided her with the record. Courtney filed no response. The Court of Appeals independently reviewed the record and Anders brief and affirmed the termination order.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738, 744 (1967)
- *In re E.L.Y.*, 69 S.W.3d 838, 841 (Tex. App.—Waco 2002, order)
- *In re Schulman*, 252 S.W.3d 403, 406-408 (Tex. Crim. App. 2008)
- *In the Interest of G.P.*, 503 S.W.3d 531, 536 (Tex. App.—Waco 2016, pet. denied)
- *McCoy v. Court of Appeals*, 486 U.S. 429, 436 (1988)
- *In re D.D.*, 279 S.W.3d 849, 850 (Tex. App.—Dallas 2009, pet. denied)

OPINION

PER CURIAM.

IN THE TENTH COURT OF APPEALS No. 10-20-00254-CV IN THE INTEREST OF T.R.M., A CHILD From the 74th District Court McLennan County, Texas Trial Court No. 2019-4171-3 MEMORANDUM OPINION Courtney B. appeals from an order that terminated the parent-child relationship between her and her child, T.R.M. See TEX. FAM. CODE ANN. § 161.001. Courtney's appointed counsel has filed a brief pursuant to *Anders v. California* asserting that the appeal presents no issues of arguable merit.

See *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). The procedures set forth in *Anders* are applicable to appeals of orders terminating parental rights. In *re E.L.Y.*, 69 S.W.3d 838, 841 (Tex. App.— Waco 2002, order). Counsel advised Courtney that counsel had filed the brief pursuant to *Anders* and that Courtney had the right to review the record and file a pro se response on her own behalf.

Counsel also provided Courtney with a copy of the record. Courtney did not file a response with this Court. Counsel included a detailed recitation of the facts in the *Anders* brief and asserted that counsel reviewed the trial court's jurisdiction and the record for any potentially meritorious issues and determined there is no non-frivolous issue to raise in this appeal.

Counsel's brief discusses the sufficiency of the evidence relating to Section 161.001(b)(1)(E) which was one ground on which the termination was granted and the best interest of the child. Counsel's brief evidences a professional evaluation of the record, and we conclude that counsel performed the duties required of appointed counsel. See *Anders*, 386 U.S. at 744; see also In *re Schulman*, 252 S.W.3d 403, 406-408 (Tex.

Crim. App. 2008). Upon the filing of the *Anders* brief, as the reviewing appellate court, it is our duty to independently examine the record to decide whether counsel is correct in determining that an appeal is frivolous. See In the Interest of G.P., 503 S.W.3d 531, 536 (Tex. App.— Waco 2016, pet. denied). Arguments are frivolous when they "cannot conceivably persuade the court."

McCoy v. Court of Appeals, 486 U.S. 429, 436, 108 S. Ct. 1895, 100 L. Ed. 2d 440 (1988). Having carefully reviewed the entire record and the *Anders* brief, we agree with counsel that the appeal is frivolous. See In *re D.D.*, 279 S.W.3d 849, 850 (Tex. App.—Dallas 2009, pet. denied).

Accordingly, we affirm the trial court's order of termination. In the Interest of T.R.M., a Child Page 2 CONCLUSION Having found no meritorious issues presented in this appeal, we affirm the judgment of the trial court. TOM GRAY Chief Justice Before Chief Justice Gray, Justice Davis, and Justice Neill Affirmed Opinion delivered and filed December 16, 2020 CV06 In the Interest of T.R.M., a Child Page 3