



**Fourth Court of Appeals
San Antonio, Texas**

MEMORANDUM OPINION

No. 04-20-00157-CV

IN THE INTEREST OF I.G.F., A CHILD

From the 150th Judicial District Court, Bexar County, Texas
Trial Court No. 2018-PA-02151
Honorable Peter Sakai, Judge Presiding

PER CURIAM

Sitting: Sandee Bryan Marion, Chief Justice
Beth Watkins, Justice
Liza A. Rodriguez, Justice

Delivered and Filed: June 17, 2020

DISMSSED

The trial court signed its final judgment on March 2, 2020. Appellant T.S. was represented at trial by appointed counsel who filed a notice of appeal. After she filed T.S.'s notice of appeal, T.S.'s appointed counsel filed a motion to withdraw on the basis that T.S. had retained new counsel, and the trial court orally granted that motion. T.S.'s retained counsel did not enter an appearance in this court, and because T.S.'s appointed counsel filed the notice of appeal, she remained counsel of record in this court.

On April 7, 2020, appellee M.F.'s attorney filed a "Notice to the Court of Appeals" stating that T.S.'s retained counsel had notified him that T.S. "would not be appealing the final decision of the trial court." Because this notice was not signed by either T.S. or her attorney, this court contacted both T.S.'s appointed counsel and her retained counsel on April 7, 2020 to inquire

whether T.S. intended to pursue her appeal. Because this court did not receive a response from either attorney and T.S. did not file a motion to voluntarily dismiss her appeal, the court retained this appeal on the docket. *See* TEX. R. APP. P. 42.1(a)(1).

T.S.'s brief was due on April 14, 2020 and was not filed. On April 16, 2020, we ordered T.S. to file either: (1) her brief and a reasonable explanation for her failure to timely file the brief; or (2) a motion that complied with Texas Rule of Appellate Procedure 42.1(a)(1). Because T.S. did not respond to our order, on May 5, 2020, we abated this appeal and ordered the trial court to conduct a hearing to determine whether: (1) T.S. desired to prosecute her appeal; (2) T.S. was indigent; and (3) T.S.'s appointed or retained counsel had abandoned the appeal.

On May 12, 2020, the trial court held a hearing on these three issues. T.S.'s appointed and retained counsel both appeared, as did attorneys for M.F., the Texas Department of Family and Protective Services ("the Department"), and I.G.F. At the end of the hearing, the trial court found: (1) T.S. "through her appointed counsel and her retained counsel [has] clearly indicated that [she] wishes to abandon the appeal"; (2) T.S. is not indigent; and (3) T.S.'s appointed and retained counsel abandoned the appeal at T.S.'s request. The reporter's record from that hearing includes an "Agreement to Dismiss Appeal" that indicates T.S., M.F., the Department, and I.G.F.'s attorney agreed to dismiss this appeal because T.S. "does not wish to continue with the appeal and wishes for the trial court's judgment to become final." This agreement is signed by the trial court, T.S.'s appointed and retained counsel, and counsel for M.F., the Department, and I.G.F.

Based on the foregoing, we conclude the parties have voluntarily agreed to dismiss this appeal. *See* TEX. R. APP. P. 42.1(a)(2). We therefore reinstate the appeal to this court's docket and dismiss the appeal. *See id.*

PER CURIAM