

Supreme Court of Texas

No. 25-0787

In the Interest of J.Z.A., a Child

On Petition for Review from the
Court of Appeals for the Eighth District of Texas

PER CURIAM

The trial court terminated Mother’s parental rights to her child based on former Section 161.001(b)(1)(O) of the Family Code—a termination ground that has raised “our judicial antennae” for potential misuse. *See In re A.A.*, 670 S.W.3d 520, 531 (Tex. 2023). This provision, which the Legislature has since repealed, authorized termination for failure “to comply with the provisions of a court order that *specifically established* the actions necessary for the parent to obtain the return of the child” after removal for abuse or neglect. *See* former TEX. FAM. CODE § 161.001(b)(1)(O) (repealed 2025) (emphasis added).¹

The court-ordered service plan at issue here broadly required Mother to “follow through with all recommendations” from certain

¹ Act of May 31, 1997, 75th Leg., R.S., ch. 1022, § 60, sec. 161.001(1)(O), 1997 Tex. Gen. Laws 3733, 3759, *repealed by* Act of May 14, 2025, 89th Leg., R.S., ch. 211, § 2, 2025 Tex. Gen. Laws 573, 573-76.

mental-health professionals and to “actively participate” and “utilize learned skills” in supervised visits with her child. *After* the court adopted the plan, Mother’s psychiatrist recommended antipsychotic medication, but she declined to take it. And while Mother attended all authorized visits with her child, the visits were “sometimes cut short” due to her inappropriate discussions or behavior. The question is whether this service plan “specifically established” the “actions” Mother failed to take such that termination was justified. Because we hold that it did not, we reverse in part and render judgment vacating the termination of Mother’s parental rights.

Sundering the ties between parent and child “can never be justified without the most solid and substantial reasons,” so the proceedings authorizing such a profound intrusion on familial rights must be “strictly scrutinized.” *Wiley v. Spratlan*, 543 S.W.2d 349, 352 (Tex. 1976) (internal quotation marks omitted). An exacting standard is warranted because termination permanently extinguishes fundamental rights of constitutional dimension. *See In re R.J.G.*, 681 S.W.3d 370, 373 (Tex. 2023). Indeed, termination is akin to a civil “death penalty”—a judgment that demands far more than “bureaucratic or mechanical box-checking.” *Id.* at 381 (internal quotation marks omitted).

These concerns are especially acute when involuntary termination of parental rights rests solely on former Paragraph (O). We therefore have repeatedly emphasized that, as the statute’s plain language dictates, a court order must clearly and specifically delineate the actions required of the parent before the State may seek the civil law’s most severe sanction for noncompliance. *See, e.g., id.* at 378-79; *In*

re A.L.R., 646 S.W.3d 833, 837-38 (Tex. 2022); *In re N.G.*, 577 S.W.3d 230, 238 (Tex. 2019). At stake is “an interest far more precious than any property right”—one threatened by a sanction that would not merely “infringe that fundamental liberty interest” but extinguish it altogether. *In re J.F.C.*, 96 S.W.3d 256, 273 (Tex. 2002) (quoting *Santosky v. Kramer*, 455 U.S. 745, 758-59 (1982)). Requiring a court-ordered service plan to state with exacting clarity the actions necessary to secure a child’s return demands no more than what the law similarly requires in contempt proceedings, where the interests at issue are often less consequential and certainly less permanent. *See In re Luther*, 620 S.W.3d 715, 722 (Tex. 2021) (“[T]o be enforceable by contempt, the order must clearly, specifically, and unambiguously state the conduct required for compliance.”). Accordingly, court-ordered service plans are strictly construed in the parent’s favor, as are the statutory provisions that supply the predicate ground for termination. *See In re H.S.*, ___ S.W.3d ___, 2026 WL 1614496, at *8 (Tex. June 5, 2026).

When appointed as a child’s temporary managing conservator, the Department of Family and Protective Services generally must work with the parent to develop a service plan that specifies the steps necessary for reunification. *See* TEX. FAM. CODE §§ 263.101-.102, .103(a); *see also id.* § 262.2015 (allowing a court to waive the service-plan requirement in aggravated circumstances). The Department did that here. Following reports that Mother had neglected and inadequately supervised her seven-year-old son, the Department identified concerns that Mother’s ability to parent was impaired due to mental-health challenges and filed a petition for emergency removal, conservatorship,

and termination of parental rights.² After appointment as temporary managing conservator, the Department created a plan, reviewed it with Mother, and filed a signed copy with the court. *See id.* §§ 263.101, .103, .105(a). The court subsequently adopted the plan as a court order. *See id.* §§ 263.105(b), .106.

The service plan set forth the Department’s concern that Mother may have unaddressed mental-health needs and stated the goal that she would address these “needs to assure she is able to provide care for [her child] with a stable mental health.” The plan then listed ten required actions pertaining to housing, parenting classes, visitation, drug testing, substance-abuse assessments, individual therapy, mental-health assessments, and caseworker meetings. By and large, Mother fulfilled most obligations. But the parties dispute whether she complied with the mental-health and visitation provisions.

The mental-health provisions collectively required Mother to (1) submit to a psychological assessment, a psychiatric evaluation, and a mental-health assessment from a specific mental-health center called La Mente and (2) “follow through with all recommendations” from those mental-health providers. Before the service plan was filed with the court, Mother completed a psychological assessment, which documented a diagnosis of “schizoaffective disorder, bipolar type” and recommended a psychiatric evaluation to determine the need for medication. Four months after the court adopted the plan as a court order, a psychiatrist

² The trial court terminated the father’s parental rights based on constructive abandonment, and he is not a party to this appeal. *See* TEX. FAM. CODE § 161.001(b)(1)(N).

diagnosed Mother with bipolar I disorder with a recent manic episode involving psychotic features and recommended antipsychotic medication. Mother declined to take the prescribed medication and failed to complete an assessment at La Mente.

Regarding visitation, the service plan required Mother to “actively participate in supervised visits with her child” twice a week for two hours, “comply with the times of the visits,” and “utilize learned skills in [parenting] classes towards visits with her child.” Mother’s attendance at the scheduled visits is undisputed. Indeed, the Department acknowledges in its merits brief that “[w]ithout a doubt, [Mother] consistently attended and participated in visits with the child.” But the caseworker testified that either Mother or child would sometimes end visits early and that Mother would occasionally raise inappropriate topics and engage in improper conduct during their visits.

The Department tried the case to the bench and sought termination only under former Paragraph (O). After hearing evidence, the court rendered an order terminating Mother’s parental rights based on noncompliance with the service plan. *See* TEX. FAM. CODE §§ 161.001(b) (requiring clear and convincing evidence to support termination), .206(a) (requiring the court to “render an order terminating the parent–child relationship” if it finds by “clear and convincing evidence” grounds to do so); *see also id.* §§ 101.007 (defining “clear and convincing evidence” as “the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established”), .023 (defining “order” to mean “a final order unless identified as a temporary order”

and to include “a judgment”). In the termination order, the court also found that parental managing conservatorship is not in the child’s best interest because it would significantly impair his physical health or emotional development, *see id.* § 153.131, and appointed the Department as the child’s permanent managing conservator.

The court of appeals affirmed, advancing three reasons the evidence was legally sufficient to support termination under former Paragraph (O). 720 S.W.3d 558, 574-80 (Tex. App.—El Paso 2025). As we explain below, none of these reasons withstands scrutiny.

First, the court held that Mother’s refusal to take the recommended medication constituted a failure to “follow through with all recommendations” of her mental-health providers, as the court-ordered service plan required. *Id.* at 574-77. We disagree. When the trial court adopted the plan, Mother’s psychiatric evaluation had not yet occurred, and no recommendation to take any medication had been made. Former Paragraph (O)’s express terms require “the provisions of a court order” to “specifically establish[] the [necessary] actions.” *See* former TEX. FAM. CODE § 161.001(b)(1)(O). But this service plan did not provide Mother with knowledge that the direct actions she must take included ingesting antipsychotic medication. That came without court order by virtue of the psychiatrist’s subsequent recommendations. This is not sufficient to support termination because former Paragraph (O) contemplates an order detailing “direct, specifically required actions.”³ *A.L.R.*, 646 S.W.3d at 837.

³ Our analysis is limited to the interpretation of former Paragraph (O)’s unique statutory language. We express no opinion about the requirements

The statutory context also supports this understanding. The Family Code mandates that the trial court review the Department’s filed service plan “for reasonableness” before incorporating the plan into a court order. TEX. FAM. CODE § 263.202(b), (b-1). But a placeholder phrase like “follow through with all recommendations” does not satisfy the trial court’s obligation to review the reasonableness of actions subsequently determined as necessary by a third party.

Psychiatric care must, of course, address evolving needs. But the Family Code already accounts for this. Service plans can be—and often are—amended “at any time.” *Id.* §§ 263.104(a), .105(c). Once the trial court reviews an amended plan and “mak[es] any changes or modifications it deems necessary, the court shall incorporate the original and any amended service plan into the orders of the court.” *Id.* § 263.106. In short, the Family Code leaves no need for the trial court to prospectively delegate its statutory authority to third parties. Here, the plan was never amended to “specifically establish[]” that Mother must take antipsychotic medication to obtain her child’s return, and no such requirement was ever incorporated into a court order.

Second, the court of appeals concluded that Mother failed to “submit to a mental health assessment from La Mente.” 720 S.W.3d at

that service plans “be specific” and “state steps that are necessary” for reunification, *see* TEX. FAM. CODE § 263.102(a)(1), (6), which differ in wording and rigor from Paragraph (O)’s demand that the actions be “specifically established.” With the repeal of Paragraph (O), disputes regarding noncompliance are less likely to turn on the precise interpretation of the plan’s terms, strictly construed. Instead, the relevant inquiry will ordinarily be whether the parent had notice and an understanding of the plan’s requirements.

577. Relying on the caseworker’s testimony that the term “mental health assessment” simply meant “to get evaluated by [a] mental health provider,” the court recognized that Mother’s completed psychological and psychiatric evaluations could constitute mental-health assessments. *Id.* at 578. But the court deemed “material” the plan’s directive that the assessment occur at La Mente because that was “where it was expected that psychiatric services would be provided, and medication would be prescribed.” *Id.*

This basis for affirmance, which the Department does not defend in this Court, fares no better. “[S]trict compliance with every aspect of every plan requirement is not always the standard,” and we have held that “if the noncompliance is trivial or immaterial in light of the plan’s requirements overall, termination under (O) is not appropriate.” *R.J.G.*, 681 S.W.3d at 379, 382. A clear example of technical noncompliance is when “the plan requires a parent to attend classes with a specified service provider and the parent goes elsewhere.” *Id.* at 382.

While “[t]here may be provisions in particular service plans for which nothing less than strict compliance will suffice to avoid termination,” *id.*, the La Mente requirement is not one of them. Mother’s failure to submit to an assessment at La Mente, considered in light of the overall service plan and the evidence presented, is too trivial and immaterial to support termination. The Department could have proffered evidence showing the directive was “material,” but it did not. The court of appeals’ speculation that La Mente was expected to provide Mother’s psychiatric services and medication management is not a substitute for proof: “The Department is required to support its

allegations against a parent by clear and convincing evidence; conjecture is not enough.” *In re E.N.C.*, 384 S.W.3d 796, 810 (Tex. 2012).

Third, the court of appeals held that Mother violated the visitation provision. 720 S.W.3d at 580. It acknowledged that the plan “did not specifically establish a requirement that each visit last the full two hours.” *Id.* at 579. But because Mother exposed her son to what the Department considered inappropriate discussions and behavior, the court concluded that Mother failed to apply the skills learned during parenting classes in her visits. *Id.* at 579-80.

We cannot agree that termination can be sustained based on Mother’s alleged failure to “utilize learned skills in [parenting] classes” during visits given the language employed in her service plan. The plan did not identify any specific skills or knowledge that Mother was directed to acquire or learn from the parenting classes; it merely stated as a goal that she “will take parenting classes that will help her become a better mother and she will gain skills.” *See* TEX. FAM. CODE § 263.102(a)(8) (requiring the service plan to “state any specific skills or knowledge that the child’s parents must acquire or learn”). Nor does the plan define what type of conduct would satisfy the requirement to “utilize learned skills” or contain any particular benchmark for Mother to attain in applying those skills during visits. *See id.* (requiring the service plan to state “any behavioral changes the parents must exhibit[] to achieve the plan goal”); *R.J.G.*, 681 S.W.3d at 380 (holding that termination of parental rights is not merited when “the Department waits until trial to reveal that it was measuring performance against a previously undisclosed requirement”). Finally, there is no record

evidence of any “learned skills” Mother acquired (or was specifically required to acquire) in her classes but failed to demonstrate. Mother’s discussions and behaviors may have exposed her son to “disturbing and stressful visits,” which appears to have troubled the court of appeals. *See* 720 S.W.3d at 579-80, 582. But that conduct did not constitute a failure to comply with the visitation provision.

In sum, the court of appeals erred in holding that legally sufficient evidence supported the trial court’s finding that former Paragraph (O) authorized the termination of Mother’s parental rights. *See H.S.*, 2026 WL 1614496, at *8 (describing the legal-sufficiency question for an appellate court as whether “a reasonable trier of fact could have formed a firm belief or conviction that its finding was true” (internal quotation marks omitted)). Genuine concerns about Mother’s mental health may exist, and the Department could have sought termination under Section 161.003 on that basis. *See* TEX. FAM. CODE § 161.003(a) (permitting termination where “the parent has a mental or emotional illness . . . that renders the parent unable to provide for the physical, emotional, and mental needs of the child”). It did not. “One reason for skepticism of the overuse of [P]aragraph O . . . is that the Family Code makes it unnecessary to enlist it in contexts” where Section 161.003 may apply. *In re G.A.M.*, 692 S.W.3d 336, 340-41 (Tex. 2024) (Young, J., concurring in denial of petition for review) (observing that, unlike grounds for termination arising from a parent’s morally condemnable conduct, Section 161.003 permits termination “where the parent has a disabling condition attributable to circumstances *beyond the parent’s control*”).

Today's decision does not leave the child unprotected or immediately change his managing conservator. Although Mother seeks restoration of the parent–child relationship, she does not challenge the Department's appointment as her child's permanent managing conservator. Because the trial court made the necessary findings to overcome the statutory presumption favoring parental managing conservatorship, we leave the conservatorship provisions of the order undisturbed. *See* TEX. FAM. CODE § 153.131(a); *In re D.N.C.*, 252 S.W.3d 317, 319 (Tex. 2008); *In re J.A.J.*, 243 S.W.3d 611, 615, 617 (Tex. 2007).

In such circumstances, the Family Code provides continuing safeguards for both parent and child. Among other things, a possessory-conservator parent has standing to seek modification of the conservatorship order. TEX. FAM. CODE §§ 102.003(a)(1), 156.001. Aside from that, the trial court has an independent obligation to review the Department's conservatorship appointment every six months until the child reaches adulthood. *Id.* §§ 263.002(a), .501(a). Such proceedings ensure ongoing judicial oversight and “guarantee that courts will continuously review the propriety of the Department's conservatorship, until a point when the child's family appears capable of providing for the child's best interests.” *J.A.J.*, 243 S.W.3d at 617. As a result, preserving Mother's legal relationship with her son does not foreclose continued protection of the child's welfare.

For these reasons, we hold that legally insufficient evidence supported the trial court's determination that former Paragraph (O) authorized the termination of Mother's parental rights. Without hearing oral argument, we grant Mother's petition for review, reverse

the portion of the court of appeals' judgment relating to the termination of Mother's parental rights, and render judgment vacating those portions of the trial court's order. *See* TEX. R. APP. P. 59.1. We otherwise leave the order undisturbed.

OPINION DELIVERED: June 26, 2026