



## Case Summaries March 22, 2024

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### DECIDED CASES

#### FAMILY LAW

##### Division of Community Property

*Landry v. Landry*, \_\_\_ S.W.3d \_\_\_, 2024 WL \_\_\_ (Tex. Mar. 22, 2024) (per curiam) [[22-0565](#)]

The issue is whether legally sufficient evidence supports the trial court's finding that certain investment accounts are Husband's separate property.

In a divorce case, the trial court found that two investment accounts in Husband's name that preexisted the marriage are his separate property. At trial, Husband's expert had testified that he traced the accounts through fifteen-years-worth of statements and that the accounts were not commingled with community assets. The expert also testified that there was a four-month gap in the statements he reviewed but that the missing statements did not affect his analysis.

The court of appeals reversed the part of the judgment dividing the community estate and remanded for a new division. The court held that the "missing" account statements created a gap in the record, with the result that no evidence supports the accounts' characterization as separate property.

The Supreme Court reversed. The Court explained that while the account statements at issue were not reviewed by the expert, they were admitted into evidence at trial, are included in the appellate record, and, thus, not "missing." Because the statements are in the record, the court of appeals erred in relying on their absence to hold that Husband failed to overcome the presumption that the accounts are community property. The Court remanded to the court of appeals to conduct a new sufficiency analysis that includes consideration of the account statements.

#### FAMILY LAW

##### Termination of Parental Rights

*In re R.R.A.*, \_\_\_ S.W.3d \_\_\_, 2024 WL \_\_\_ (Tex. Mar. 22, 2024) [[22-0978](#)]

The issue in this case is whether the State must prove that a parent's drug use directly harmed the child to prove endangerment as a ground for termination of parental rights.

Father had a history of methamphetamine use, unemployment, and homelessness for two months while parenting his three children, who were between one- and three-years old. The Department removed the children from Father's care.

During the Department's attempts to reunify the children with Father over the course of a year and a half, Father tested positive for drugs twice more, stopped taking court-mandated drug tests for nearly a year, and had no contact with the children for about six months before trial. Father did not secure housing or employment. The trial court ordered Father's parental rights terminated under grounds that require that a parent's conduct "endanger" the child, including one ground specific to drug use. A divided court of appeals reversed and held that individual pieces of evidence were insufficient to show that Father's drug use directly endangered the children.

The Supreme Court reversed. In an opinion by Justice Bland, the Court reaffirmed that endangerment does not require that the parent's conduct directly harm the child. Instead, a pattern of parental behavior that presents a substantial risk of harm to the child permits a factfinder to reasonably find endangerment. This pattern can be shown when drug use affects the parent's ability to parent. The Court went on to hold that based on the totality of the evidence—Father's felony-level drug use, refusal to provide court-ordered drug tests, inability to secure housing and employment, and prolonged absence from the children—legally sufficient evidence supported the trial court's finding of endangerment. The Court remanded the case to the court of appeals to consider Father's challenge to the trial court's best-interest findings in the first instance.

Justice Blacklock filed a dissenting opinion. He would have held that the Department did not prove by clear and convincing evidence that the children were sufficiently endangered to warrant termination.