

SUPREME JUDICIAL COURT OF MAINE

In re Amberley D., 2001 ME 87

775 A.2d 1158 (2001) · Decided June 6, 2001

SUMMARY

The Maine Supreme Judicial Court affirmed the appointment of Diana and Richard B. as coguardians of Amberley D. The court held that the emergency guardianship procedure did not violate due process, that Maine had jurisdiction and venue under the applicable child-custody jurisdiction statutes, and that clear and convincing evidence supported the guardianship. The court also rejected the appellant's constitutional challenge to the guardianship statute.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Alexander, J.; Wathen, C.J.; Clifford, J.; Rudman, J.; Dana, J.; Saufley, J.
JURISDICTION	Maine
DECIDED	June 6, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed the Waldo County Probate Court's judgment appointing Diana and Richard B. as coguardians of Amberley D. after the court first appointed them temporary guardians without prior notice and later held a full guardianship hearing.
STANDARD OF REVIEW	The court reviewed the Probate Court's factual findings for clear error on direct appeal. Constitutional due process issues were analyzed under the Mathews v. Eldridge balancing factors.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Judicial Court of Maine.
PARTIES	Joann R. v. Diana B., Richard B.

TOPICS

guardianship procedure

guardianships

procedural due process

subject matter jurisdiction

appellate procedure

PRACTICE AREAS

guardianships

family law

constitutional law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Probate Court improperly waived notice of the temporary guardianship hearing to Amberley's mother.
2. Whether the Parental Kidnapping Prevention Act or the Uniform Child Custody Jurisdiction and Enforcement Act deprived the Maine Probate Court of jurisdiction or venue.
3. Whether clear and convincing evidence supported the appointment of full guardians.
4. Whether the guardianship statute violated the mother's due process rights by permitting temporary guardianship without prior notice and by providing fewer safeguards than a termination-of-parental-rights proceeding.

HOLDINGS

1. The temporary guardianship statute's limited authorization to waive notice for good cause, together with prompt post-appointment notice and an opportunity for a hearing, did not violate due process.
2. The Maine Probate Court had jurisdiction over the guardianship petition because New Hampshire was not Amberley's home state and Maine satisfied the significant-connection and substantial-evidence requirements.
3. Venue was proper in Maine because, for a minor guardianship proceeding, venue lies where the minor resides or is present, and Amberley was present in Maine.
4. Clear and convincing evidence supported the appointment of Diana and Richard B. as full coguardians because Amberley's living situation was at least temporarily intolerable and the proposed guardians could provide a living situation in her best interest.
5. The guardianship statute was not unconstitutional as applied because guardianship is not final, a parent retains the ability to seek removal and regain custody, and the procedural safeguards required for termination of parental rights are therefore not required.

KEY QUOTATIONS

“Thus, the guardianship statute, providing for waiver of notice in limited circumstances, but with subsequent opportunity to be heard, did not violate Joann's due process rights.” (¶ 12, 775 A.2d at 1163)

“Consequently, the significant connection and substantial evidence requirements were satisfied under the UCCJEA and the PKPA, and the Probate Court has jurisdiction over the guardianship petition.” (¶ 17, 775 A.2d at 1164)

“Because the parent retains the right to regain custody, the same degree of procedural safeguards as in termination proceedings is not constitutionally required.” (¶ 23, 775 A.2d at 1166)

FACTUAL BACKGROUND

Amberley D. had experienced frequent moves, unstable housing, repeated school changes, and had stopped attending school. She testified that her mother abused drugs and alcohol, provided those substances to her, engaged in sexual activity in her presence, and failed to respond adequately to reports of sexual molestation. After Amberley went to live with her grandparents, Diana and Richard B., the Probate Court found her prior living situation at least temporarily intolerable and found that the proposed guardians would provide a stable and beneficial home.

PROCEDURAL HISTORY

Diana and Richard B. petitioned the Waldo County Probate Court for appointment as temporary coguardians after Amberley came to live with them. The Probate Court granted a six-month temporary guardianship, denied Joann R.'s motions to dismiss, and, after a noticed hearing in which she participated, appointed Diana and Richard B. full coguardians based on clear and convincing evidence. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- Barclay v. Eckert, 2000 ME 10, ¶ 8, 743 A.2d 1259, 1262
- Guardianship of Gabriel W., 666 A.2d 505, 508-10 (Me. 1995)
- Thompson v. Thompson, 484 U.S. 174, 177, 108 S. Ct. 513, 98 L. Ed. 2d 512 (1988)
- In re Heather C., 2000 ME 99, ¶ 22, 751 A.2d 448, 454
- Mathews v. Eldridge, 424 U.S. 319, 335, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)
- Rideout v. Riendeau, 2000 ME 198, ¶ 14, 761 A.2d 291, 297-98
- Wambold v. Wambold, 651 A.2d 330, 332-33 (Me. 1994)
- Conservatorship of Justin R., 662 A.2d 232, 234 (Me. 1995)
- Estate of Paine, 609 A.2d 1150, 1152 (Me. 1992)
- Guardianship of Zachary Z., 677 A.2d 550, 552-53 (Me. 1996)
- Guardianship of Boyle, 674 A.2d 912, 913 (Me. 1996)
- In re Sabrina M., 460 A.2d 1009, 1015-16 (Me. 1983)