

SUPREME JUDICIAL COURT OF MAINE

In re Child Danielle F.

207 A.3d 1193 (Me. 2019) · Decided May 7, 2019

SUMMARY

The Maine Supreme Judicial Court affirmed a judgment terminating a mother's parental rights based on her inability to protect the child from jeopardy and inability to take responsibility for the child. The court held that proceeding with the termination hearing in the mother's absence did not violate due process and that termination, rather than a permanency guardianship, was in the child's best interest.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Maine
DECIDED	May 7, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	The mother appealed from a District Court judgment terminating her parental rights, arguing that the court violated her due process rights by commencing the termination hearing in her absence and abused its discretion by ordering termination rather than a permanency guardianship.
STANDARD OF REVIEW	The court reviewed the due process challenge and the decision to proceed with the hearing without the mother's physical presence for abuse of discretion. It reviewed the appropriateness of a permanency guardianship for abuse of discretion and gave substantial deference to the trial court's best-interest determination.
PRECEDENTIAL VALUE	published
PARTIES	Danielle F. v. Department of Health and Human Services

TOPICS

termination of parental rights

guardianships

due process

appellate procedure

family law procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the mother's due process rights were violated when the District Court commenced the termination hearing as scheduled in her absence, although the court knew she would arrive several hours later.
2. Whether the District Court abused its discretion by terminating the mother's parental rights instead of ordering a permanency guardianship.

HOLDINGS

1. A parent's due process rights are not violated merely because the parent is physically absent from part of a termination hearing when the parent received adequate notice and had an opportunity to be heard through counsel, including the opportunity to examine witnesses and respond to claims and evidence.
2. The District Court did not abuse its discretion by terminating the mother's parental rights rather than ordering a permanency guardianship because the evidence supported the finding that termination was in the child's best interest and the child needed permanency promptly.

KEY QUOTATIONS

“In termination cases, where fundamental interests are at stake, due process requires: notice of the issues, an opportunity to be heard, the right to introduce evidence and present witnesses, the right to respond to claims and evidence, and an impartial fact-finder.” (¶5)

“Due process, however, does not require that a parent be physically present at the termination hearing, as long as notice of the hearing was given in a manner calculated to give actual notice and the parent had an opportunity to be heard.” (¶5)

FACTUAL BACKGROUND

The child was a very young boy who had spent most of his life in the Department of Health and Human Services' custody and had experienced multiple placements. The mother had longstanding substance-abuse, domestic-violence, housing, mental-health, and parenting problems; continued using marijuana and other drugs, violated group-home rules, and maintained contact with a violent man despite restrictions. After more than two years to address her parenting issues and reunify, she remained unable to protect the child from jeopardy or take responsibility for him, and the trial court found that termination was in his best interest.

PROCEDURAL HISTORY

The District Court for Portland terminated the mother's parental rights after finding, by clear and convincing evidence, statutory grounds of parental unfitness and that termination was in the child's best interest. The mother timely appealed to the Supreme Judicial Court of Maine, which affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- In re Child of James R., 2018 ME 50, ¶ 17, 182 A.3d 1252
- In re Child of Tanya C., 2018 ME 153, ¶ 10, 198 A.3d 777
- In re Adden B., 2016 ME 113, ¶ 9, 144 A.3d 1158
- In re G.W., 2014 ME 30, ¶ 9, 86 A.3d 1228
- In re Child of Domenick B., 2018 ME 158, ¶¶8, 10, 197 A.3d 1076
- In re Cameron B., 2017 ME 18, ¶ 13, 154 A.3d 1199
- In re David W., 2010 ME 119, ¶ 10, 8 A.3d 673
- In re Michaela C., 2002 ME 159, ¶ 27, 809 A.2d 1245
- In re C.P., 2016 ME 18, ¶¶30, 34, 132 A.3d 174
- In re Child of Ronald W., 2018 ME 107, ¶ 7 n.2, 190 A.3d 1029