

SUPREME JUDICIAL COURT OF MAINE

Guardianship of Lantigua

2016 ME 29, 133 A.3d 252 · Decided February 11, 2016

SUMMARY

The Maine Supreme Judicial Court reviewed a Probate Court judgment appointing the children’s maternal grandmother as their limited guardian. The court upheld the appointment based on the grandmother’s status as a de facto guardian, the father’s lack of consistent participation, and the temporarily intolerable living situation created by the father’s conduct. It remanded for the Probate Court to specify the guardian’s duties and powers and the parental rights and responsibilities retained by the father.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Gorman, J.; Alexander; Gorman; Hjelm; Humphrey; Jabar; Mead; Saufley
JURISDICTION	Maine
DECIDED	February 11, 2016
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Leopoldo A. Lantigua appealed from the Waldo County Probate Court's judgment appointing Dale C. Tempesta as the limited guardian of Lantigua's children.
STANDARD OF REVIEW	The court reviewed the Probate Court's legal conclusions de novo and its factual findings for clear error.
PRECEDENTIAL VALUE	published opinion
PARTIES	Leopoldo A. Lantigua v. Dale C. Tempesta

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QUESTIONS PRESENTED

1. Whether the Probate Court properly appointed Tempesta as guardian based on her status as a de facto guardian and Lantigua's lack of consistent participation.
2. Whether the Probate Court properly found that Lantigua's treatment of the children created a temporarily intolerable living situation supporting guardianship.
3. Whether the Probate Court was required to specify the duties and powers granted to the limited guardian and the parental rights and responsibilities retained by Lantigua.

HOLDINGS

1. The Probate Court properly determined that Tempesta was entitled to a guardianship over the children based on the statutory guardianship grounds and the evidence of Lantigua's limited participation and conduct.
2. A limited guardianship was an appropriate response to Lantigua's temporary or partial unfitness.
3. The Probate Court erred by failing to specify the duties and powers granted to Tempesta and the parental rights and responsibilities retained by Lantigua.

KEY QUOTATIONS

“Based on our de novo review of the court’s legal conclusions, and after reviewing the court’s factual findings for clear error, Estate of Miller, 2008 ME 176, ¶ 9, 960 A.2d 1140, we do not find any of Lantigua’s challenges persuasive.” (256)

“The court’s error was its failure to specify the parental rights and responsibilities retained by Lantigua.” (257)

FACTUAL BACKGROUND

Lantigua and the children's mother divorced in 2010, and the District Court initially awarded shared parental rights and responsibilities, with the mother having primary residence. After concerns arose about the mother's ability to care for the children, Lantigua obtained sole parental rights and responsibilities in 2012, but he allowed the children to remain with Tempesta and did not establish a guardianship arrangement. The children lived with Tempesta for more than three years, while Lantigua had minimal contact and financial involvement; after he abruptly removed them to Florida, the children experienced behavioral and emotional difficulties. Tempesta then sought guardianship, and the Probate Court appointed her limited guardian.

PROCEDURAL HISTORY

After the District Court awarded Lantigua sole parental rights and responsibilities, the children continued to live with their maternal grandmother, Tempesta, for several years. Tempesta petitioned the Waldo County Probate Court for guardianship, and after hearings the Probate Court appointed her limited permanent guardian based on her de facto guardian status, Lantigua's lack of consistent participation, and a temporarily intolerable living situation. The Maine Supreme Judicial Court affirmed the appointment but remanded for the Probate Court to specify the guardian's powers and duties and the parental rights retained by Lantigua.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Probate Court must amend its order to specify the duties and powers granted to Tempesta and the parental rights and responsibilities retained by Lantigua. The amended order may also include specific actions and timeframes for returning the children to Lantigua if the parties have complied with the existing order.

CASES CITED

- Marin v. Marin, 2002 ME 88, ¶ 7, 797 A.2d 1265
- Estate of Miller, 2008 ME 176, ¶ 9, 960 A.2d 1140
- Guardianship of Jewel M. (Jewel II), 2010 ME 80, ¶¶ 50-51, 2 A.3d 301

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