

SUPREME JUDICIAL COURT OF MAINE

In re Child Daniel Q.

182 A.3d 735 (Me. 2018) · Decided April 3, 2018

SUMMARY

The Maine Supreme Judicial Court affirmed a District Court judgment terminating the father's parental rights to his child. The court held that competent evidence supported findings that the father was unable or unwilling to protect the child from jeopardy and had failed to make a good-faith effort to rehabilitate and reunify. The court also concluded that termination was supported by the child's best interests.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Maine
DECIDED	April 3, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from a District Court judgment terminating his parental rights to his child.
STANDARD OF REVIEW	The court reviews factual findings supporting a parental-unfitness determination for clear error and will reverse only if there is no competent evidence supporting the finding, the fact-finder clearly misapprehended the evidence, or the finding is so contrary to the credible evidence that it does not represent the truth and right of the case. The weight and credibility of testimony and other evidence are for the fact-finder to determine.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Judicial Court of Maine
PARTIES	Daniel Q., father v. Maine Department of Health and Human Services

TOPICS

termination of parental rights

parental rights

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether competent evidence supported the District Court's finding that the father was unwilling or unable to protect the child from jeopardy within a time reasonably calculated to meet the child's needs.
2. Whether competent evidence supported the District Court's finding that the father failed to make a good-faith effort to rehabilitate and reunify with the child.
3. Whether the evidence supported termination of the father's parental rights, including the finding that termination was in the child's best interest.

HOLDINGS

1. The District Court did not clearly err in finding the father unfit because competent evidence established that he was unwilling or unable to protect the child from jeopardy within a time reasonably calculated to meet the child's needs and had failed to make a good-faith effort to rehabilitate and reunify.
2. The record also supported the District Court's finding, by clear and convincing evidence, that termination of the father's parental rights was in the child's best interest.

KEY QUOTATIONS

"We review the factual findings supporting the unfitness determination for clear error," (736)

"will reverse a finding only if there is no competent evidence in the record to support it, if the fact-finder clearly misapprehends the meaning of the evidence, or if the finding is so contrary to the credible evidence that it does not represent the truth and right of the case," (736)

"The weight and credibility of the testimony and other evidence are for the fact-finder's determination." (736)

FACTUAL BACKGROUND

The child had spent his entire life in the care of persons other than his parents. The father had made little progress toward acquiring parenting skills, gaining insight into his relationship problems, providing support, or securing safe and stable housing. He had pleaded guilty to one domestic-violence assault, been convicted of another assault and of violating a protective order, and had three protective orders lodged against him. The Department devoted substantial resources to reunification, but the father did not make a genuine or sustained effort, while the child was approaching eighteen months of age and had pressing developmental needs.

PROCEDURAL HISTORY

The District Court in Skowhegan terminated the father's parental rights under 22 M.R.S. § 4055. The father appealed, challenging the termination judgment; the Supreme Judicial Court of Maine reviewed the record and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Zarianna C., 2018 ME 11, ¶ 2, 177 A.3d 1270
- In re Zianna G., 2017 ME 226, ¶ 2, 174 A.3d 889
- In re Anastasia M., 2017 ME 213, ¶ 2, 172 A.3d 922

OPINION

PER CURIAM.

PER CURIAM *736[¶ 1] Daniel Q. appeals from a judgment of the District Court (Skowhegan, Fowle, J.) terminating his parental rights to his child pursuant to 22 M.R.S. § 4055(1)(A)(1)(a) and (B)(2)(a), (b)(i), (iv) (2017).¹ After reviewing the record, we conclude that the evidence supports the court's finding of parental unfitness.² Accordingly, we affirm the judgment. [¶ 2] Based on competent evidence in the record, the court found by clear and convincing evidence that the father (1) is unwilling or unable to protect the child from jeopardy within a time reasonably calculated to meet his needs, and (2) failed to make a good faith effort to rehabilitate and reunify with him.

See 22 M.R.S. § 4055(1)(B)(2)(b)(i), (iv). "We review the factual findings supporting the unfitness determination for clear error," In re Zarianna C., 2018 ME 11, ¶ 2, 177 A.3d 1270, and "will reverse a finding only if there is no competent evidence in the record to support it, if the fact-finder clearly misapprehends the meaning of the evidence, or if the finding is so contrary to the credible evidence that it does not represent the truth and right of the case," In re Zianna G., 2017 ME 226, ¶ 2, 174 A.3d 889 (quotation marks omitted).

"The weight and credibility of the testimony and other evidence are for the fact-finder's determination." Id. (alteration and quotation marks omitted). [¶ 3] The court based its determination on the following findings of fact: In the case of [the child], his entire life has been in the care of persons other than his parents.

The father has made relatively little progress in achieving the skills needed to parent [the child]. He has achieved little to no insight as to the root of his problems with women, and relationships. He appears to blame all of his difficulties on the women he has been married to. He pleaded guilty to one domestic violence assault, and was found guilty of another.

He was convicted of violating a protective order, and has had three protective orders lodged against him. The father is convinced that none of this is his fault, and that his only responsibility is to not... engage in relationships with women who will victimize him.

The father has little to no ability to support [the child]. He is not able to provide [the child] with safe, stable housing, and other than learning to access social service agency resources, he has made little progress toward that end. It is hard to avoid the conclusion by clear and convincing evidence that... the father is unwilling or unable to protect the child from jeopardy, and these circumstances are unlikely to change *737within a time which is reasonably calculated to meet the child's needs; and that the father has failed to make a good faith effort to rehabilitate and reunify with the child....

The Department has devoted considerable resources in their effort to achieve reunification between the father and [the child]. The father has not reciprocated by making any genuine or sustained effort. [The child] will be eighteen months old by the end of this month. He is in one of the most critical developmental stages of his life.... Even if one assumes that the father is prepared to engage in a serious and sustained effort toward reunification (a dubious assumption based upon his lack of insight and lack of effort up until now)... [the child] simply does not have that much time to wait, and our jurisprudence strongly suggests that he should not have to wait that long. [¶ 4] Given these findings, all of which are supported by competent evidence in the record, the court did not err in its determination of unfitness.

See *In re Zarianna C.*, 2018 ME 11, ¶ 2, 177 A.3d 1270; *In re Zianna G.*, 2017 ME 226, ¶ 2, 174 A.3d 889. The entry is: Judgment affirmed. The mother consented to a termination of her parental rights and is not a party to this appeal.

Although the father does not challenge the court's finding by clear and convincing evidence that termination is in the child's best interest, our review of the record leads us to conclude that the evidence supports that finding as well. See *In re Anastasia M.*, 2017 ME 213, ¶ 2, 172 A.3d 922.