

SUPREME JUDICIAL COURT OF MAINE

In re Children of Troy H.

2019 ME 154 · No. Aro-19-162 · Decided October 31, 2019

SUMMARY

The Maine Supreme Judicial Court affirmed a judgment finding that two children were in circumstances of jeopardy under Maine law and that returning them to their father's custody would likely cause serious emotional or physical damage under the Indian Child Welfare Act. The court held that the trial court's factual findings, including physical altercations, substance abuse, housing instability, and inadequate parenting responses, supported both determinations.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Saufley, C.J.; Alexander, J.; Mead, J.; Gorman, J.; Jabar, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	October 31, 2019
DOCKET	Aro-19-162
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed from a District Court jeopardy judgment determining that two children were in circumstances of jeopardy under Maine law and that returning them to his custody was likely to cause serious emotional or physical damage under the Indian Child Welfare Act.
STANDARD OF REVIEW	The court reviewed factual findings for clear error and affirmed the jeopardy determination unless there was no competent record evidence that could rationally be understood to establish, as more likely than not, that the children were in circumstances of jeopardy to their health and welfare.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Troy H. v. Department of Health and Human Services

TOPICS

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PRACTICE AREAS

family law

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QUESTIONS PRESENTED

1. Whether competent record evidence supported the District Court's determination under 22 M.R.S. § 4035(2) that the children were in circumstances of jeopardy.
2. Whether the record supported the determination under ICWA that returning the children to the father's custody was likely to result in serious emotional or physical damage.

HOLDINGS

1. The District Court's findings established, as more likely than not, that returning the children to the father's custody would cause serious harm or the threat of serious harm and therefore supported a finding of jeopardy under 22 M.R.S. § 4035(2).
2. The District Court's findings were supported by competent record evidence and sufficiently established by clear and convincing evidence that returning the children to the father's custody was likely to result in serious emotional or physical damage under 25 U.S.C.S. § 1912(e).
3. Maine law and ICWA apply concurrently in an Indian child-protection proceeding, resulting in a dual burden of proof: preponderance of the evidence for Maine-law jeopardy and clear and convincing evidence for the ICWA serious-damage determination.

KEY QUOTATIONS

“We note initially that Maine law and federal law apply concurrently to this proceeding, resulting in a “dual burden of proof.”” (¶ 4)

“We review the court’s factual findings for clear error and will affirm its jeopardy determination pursuant to section 4035(2) “unless there is no competent record evidence that can rationally be understood to establish as more likely than not that the child was in circumstances of jeopardy to his or her health and welfare.”” (¶ 5)

FACTUAL BACKGROUND

The father had sole custody of the two teenage children and, after moving to Maine, engaged in repeated physical altercations with the older child. During the same period, he abused substances, experienced homelessness and unstable housing, and failed to ensure consistent schooling or follow-up services. The children experienced severe instability, and the father lacked a viable plan for their care while displaying volatile reactions and an inability to recognize how his conduct affected both children.

PROCEDURAL HISTORY

The Department of Health and Human Services petitioned for a child protection order and preliminary protection order in November 2018. The District Court placed the children in the Department's custody, conducted a

contested jeopardy hearing in January and March 2019, and entered an April 11, 2019 jeopardy judgment. The father timely appealed; the Maine Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Denice F., 658 A.2d 1070, 1072 (Me. 1995)
- In re Danielle H., 2019 ME 134, ¶ 2, 215 A.3d 217
- In re Nicholas S., 2016 ME 82, ¶ 9, 140 A.3d 1226
- In re Chelsey B., 499 A.2d 137, 139 (Me. 1985)
- State v. Cookson, 2019 ME 30, ¶ 8, 204 A.3d 125