

SUPREME JUDICIAL COURT OF MAINE

In re Arturo G.

2017 ME 228, 175 A.3d 91 · Decided December 12, 2017

SUMMARY

The Maine Supreme Judicial Court affirmed the termination of both parents’ parental rights to Arturo G. The court held that the evidence supported the father’s unfitness finding, that denying his motions to continue the termination hearing did not violate due process, and that the trial court did not abuse its discretion by admitting the mother’s drug-test results under an agreed jeopardy-order provision.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Saufley, C.J.; Alexander, J.; Hjelm, J.; Humphrey, J.; Jabar, J.; Mead, J.
JURISDICTION	Maine
DECIDED	December 12, 2017
DISPOSITION	affirmed
PROCEDURAL POSTURE	The parents appealed from a District Court judgment terminating their parental rights to Arturo under Maine's child-protection statute.
STANDARD OF REVIEW	Parental unfitness is reviewed to determine whether the entire record rationally supports the trial court's necessary factual findings by clear and convincing evidence, viewing the facts and the weight assigned to them through the trial court's lens. Denial of a motion to continue is reviewed for abuse of discretion; when due process is implicated, the court determines whether the procedure was fundamentally fair. Admission of evidence is reviewed for abuse of discretion or clear error.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential.
PARTIES	Father of Arturo G., Mother of Arturo G. v. Department of Health and Human Services

TOPICS

- termination of parental rights
- family law procedure
- hearsay
- due process
- appellate procedure

PRACTICE AREAS

family law

evidence

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether clear and convincing evidence supported the District Court's finding that the father was an unfit parent under 22 M.R.S. § 4055.
2. Whether denial of the father's motions to continue the termination hearing deprived him of due process or constituted an abuse of discretion.
3. Whether the District Court properly admitted the mother's drug-test results under the admissibility provision in the parties' agreed jeopardy order.

HOLDINGS

1. The evidence was sufficient to support the District Court's finding that the father was unfit because he was unwilling or unable to protect Arturo from jeopardy, was unlikely to change within a time reasonably calculated to meet the child's needs, and failed to take responsibility and make a good-faith effort to rehabilitate and reunify.
2. The District Court did not deprive the father of due process or abuse its discretion by denying his motions to continue the termination hearing.
3. The District Court did not abuse its discretion by admitting the mother's drug-test results because the agreed jeopardy order waived hearsay objections to drug-test results obtained through substance-abuse providers engaged as part of reunification efforts.

KEY QUOTATIONS

“In the context of a termination hearing, balancing the interests 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 factfinder.”” (2017 ME 228, ¶ 14)

“The Department concedes that these results would be inadmissible hearsay absent an agreement by the parties waiving any admissibility objections.” (2017 ME 228, ¶ 18)

FACTUAL BACKGROUND

Arturo was born to parents with significant histories of substance abuse, criminal conduct, and incarceration, and he had lived with four different care providers by the age of two and a half. The father agreed to a jeopardy order requiring substance-abuse treatment, suitable housing, and random drug testing, but he delayed treatment, failed to attend requested drug screens, shaved his body to prevent hair testing, and was found not to have made adequate reunification efforts. The mother also agreed to a jeopardy-order provision stating that drug-test results obtained through requested random testing would be admissible. At the termination hearing, the father sought a continuance because of Suboxone-withdrawal symptoms, and the mother objected to drug-test results as hearsay.

PROCEDURAL HISTORY

The Department of Health and Human Services filed a child-protection petition shortly after Arturo's birth. The District Court entered jeopardy orders concerning both parents, and the Department later filed a petition to terminate their parental rights. After a two-day termination hearing, the court found both parents unfit, found that termination was in Arturo's best interest, and terminated their parental rights. The parents timely appealed.

DISPOSITION

affirmed

CASES CITED

- In re Higern N., 2010 ME 77, ¶ 29, 2 A.3d 265
- In re Cameron Z., 2016 ME 162, ¶ 16, 150 A.3d 805
- In re Logan M., 2017 ME 23, ¶ 3, 155 A.3d 430
- In re J.B., 2015 ME 25, ¶ 5, 112 A.3d 369
- In re A.M., 2012 ME 118, ¶¶ 14, 16, 25, 55 A.3d 463
- In re Kristy Y., 2000 ME 98, ¶¶ 7-8, 752 A.2d 166
- United States v. Mezzanatto, 513 U.S. 196, 202 (1995)
- State v. Hall, 2017 ME 210, ¶¶ 15, 22, 172 A.3d 467
- In re Caleb M., 2017 ME 66, ¶ 34, 159 A.3d 345
- Boothbay Harbor Condo. I v. Whitten, 387 A.2d 1117, 1120 (Me. 1978)
- Randlett v. Randlett, 401 A.2d 1008, 1010 (Me. 1979)
- State v. Dolloff, 2012 ME 130, ¶ 39 n. 11, 58 A.3d 1032