

SUPREME JUDICIAL COURT OF MAINE

In re Aurora M. et al.

2018 ME 4 (2018) · No. Ken-17-308 · Decided January 23, 2018

SUMMARY

The Maine Supreme Judicial Court affirmed a judgment terminating the father's parental rights to Aurora M. and Juelz M. The court held that the guardian ad litem's statutory obligations did not require a face-to-face interview when such an interview may not have been possible or appropriate, and did not expressly require immediate notification to the father's counsel of his incarceration. The court also found no error in the trial court's determinations of parental unfitness and the children's best interests.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam; Alexander, J.; Mead, J.; Gorman, J.; Jabar, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	January 23, 2018
DOCKET	Ken-17-308
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from a District Court judgment terminating his parental rights to Aurora M. and Juelz M.
STANDARD OF REVIEW	The court reviews factual findings for clear error, evaluated under the clear and convincing evidence standard of proof. The court reviewed the termination decision for abuse of discretion where applicable.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Father of Aurora M. and Juelz M. v. Department of Health and Human Services

TOPICS

termination of parental rights

parental rights

family law procedure

statutory interpretation

appellate procedure

PRACTICE AREAS

family law

child protection

termination of parental rights

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statutory interpretation

QUESTIONS PRESENTED

1. Whether the guardian ad litem violated statutory obligations by failing to conduct an in-person interview with the incarcerated father.
2. Whether the guardian ad litem had an express statutory duty to notify the father's attorney that the father had become incarcerated while a cease-reunification order was pending.
3. Whether the evidence supported the findings of parental unfitness and that termination was in the children's best interests.

HOLDINGS

1. The guardian ad litem did not violate 22 M.R.S. § 4005 by failing to conduct an in-person interview with the father because the statute requires an interview with a parent only when possible and appropriate, does not prescribe the manner or method of a parental interview, and the guardian ad litem's statutory compliance is not a discrete element that must independently be proved to terminate parental rights.
2. Sections 4 M.R.S. § 1554 and 22 M.R.S. § 4005 do not impose an express obligation on a guardian ad litem to immediately notify a parent's counsel that the parent has become incarcerated in a child-protection matter. In any event, the record did not establish that the guardian ad litem knew of the incarceration during the relevant period or that the alleged omission prejudiced the father.
3. The District Court's findings that the father was unfit and that termination was in the children's best interests were supported by the record and did not constitute error or abuse of discretion.

KEY QUOTATIONS

“sections 1554 and 4005 do not impose an express obligation on a guardian ad litem to immediately notify a parent’s counsel in a child protection matter that the parent has become incarcerated.” (¶ 14)

FACTUAL BACKGROUND

The father was the children's primary caregiver before the Department took custody and had a lengthy history of heroin use, criminal conduct, and domestic violence against the children's mother. Both children witnessed incidents of domestic violence, and Aurora suffered severe post-traumatic stress disorder as a result. The father participated minimally or not at all in reunification services, maintained little contact with the parties or court, failed to appear for proceedings, and was incarcerated during portions of the child-protection case. The District Court found that he was unfit and that termination was in the children's best interests.

PROCEDURAL HISTORY

The Department of Health and Human Services took custody of the children in January 2016. After a jeopardy finding, a cease-reunification order, and a termination hearing, the Augusta District Court terminated the father's parental rights in June 2017. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- In re M.C., 2014 ME 128, ¶¶ 6-7, 104 A.3d 139
- In re William P., 2001 ME 25, 765 A.2d 76
- In re Hannah S., 2016 ME 32, ¶ 3, 133 A.3d 590
- In re Hannah S., 2016 ME 32, ¶ 7, 133 A.3d 590
- In re Hannah S., 2016 ME 32, ¶ 12, 133 A.3d 590
- In re Doris G., 2006 ME 142, ¶ 17, 912 A.2d 572
- In re Aubrey R., 2017 ME 37, ¶ 8, 157 A.3d 212