

SUPREME JUDICIAL COURT OF MAINE

In re Child of Olivia F.

2019 ME 149 (2019) · No. And-19-128 · Decided October 1, 2019

SUMMARY

The Maine Supreme Judicial Court affirmed the termination of Olivia F.’s parental rights based on statutory grounds including abandonment and parental unfitness. The court held that her failure to attend the second day of the termination hearing supported a finding of intent to forego parental duties and that the trial court properly determined termination was in the child’s best interest without deciding who would ultimately adopt the child.

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.
JURISDICTION	Maine
DECIDED	October 1, 2019
DOCKET	And-19-128
DISPOSITION	affirmed
PROCEDURAL POSTURE	Olivia F. appealed from a District Court judgment terminating her parental rights under 22 M.R.S. § 4055.
STANDARD OF REVIEW	The court reviews factual findings for clear error and the ultimate best-interest determination for abuse of discretion. It affirms termination when the entire record demonstrates that the trial court rationally could have found clear and convincing evidence supporting the required termination findings.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Olivia F. v. Maine Department of Health and Human Services

TOPICS

termination of parental rights parental rights family law procedure appellate procedure
statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the mother's failure to attend the second day of the termination hearing supported a finding that she intended to forego parental duties and had abandoned the child.
2. Whether clear and convincing evidence supported at least one statutory ground of parental unfitness.
3. Whether the District Court exceeded the scope of a termination proceeding or abused its discretion by considering the child's placement and adoption permanency plan when determining that termination was in the child's best interest.

HOLDINGS

1. A parent's failure to attend a portion of a termination hearing may be considered evidence of an intent to forego parental duties, and where the parent offers no good cause for the absence, the court may find abandonment.
2. The termination judgment was supported because the mother conceded that the evidence established at least one statutory ground of parental unfitness, and a single supported ground is sufficient.
3. When a termination hearing is consolidated with a permanency-planning hearing, the court may determine both whether termination is in the child's best interest and what permanency plan should follow termination, but the identity of the child's eventual adoptive parent must be decided in a separate adoption proceeding.

KEY QUOTATIONS

“The ultimate “question of who is the best person to adopt the child” is, however, “beyond the scope of a termination proceeding because that question must be addressed in a separate adoption action.”” (¶ 9)

FACTUAL BACKGROUND

The Department became involved when the child was approximately two years old, and the child remained placed with the maternal great-grandmother during the proceedings. The mother had chronic and significant substance-use problems, repeated incarcerations, inconsistent participation in services, no contact with the child for several months, and limited progress toward reunification. She attended the first day of the termination hearing but did not attend the second day, despite being present at the courthouse initially; her attorney reported that she had left and did not plan to return. The District Court found all four statutory grounds of unfitness and determined that termination was in the child's best interest.

PROCEDURAL HISTORY

The Department of Health and Human Services petitioned for child protection and preliminary protection orders in October 2017, followed by a petition to terminate the mother's parental rights. The District Court conducted a consolidated termination and permanency-placement hearing over two days and entered judgment terminating the mother's parental rights and ordering a permanency plan of adoption. The mother timely appealed, and the Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- In re R.M., 2015 ME 38, 114 A.3d 212
- In re M.B., 2013 ME 46, 65 A.3d 1260
- In re Children of Anthony N., 2019 ME 64, 207 A.3d 1191
- In re Child of Kaysean M., 2018 ME 156, 197 A.3d 525
- In re Child of Tanya C., 2018 ME 153, 198 A.3d 777
- In re A.M., 2012 ME 118, 55 A.3d 463
- In re Robert S., 2009 ME 18, 966 A.2d 894
- In re Children of Nicole M., 2018 ME 75, 187 A.3d 1
- In re Thomas H., 2005 ME 123, 889 A.2d 297
- In re Children of Bethmarie R., 2019 ME 59, 207 A.3d 197