

SUPREME JUDICIAL COURT OF MAINE

Adoption by Jessica M. et al.

2020 ME 118 · No. And-19-491 · Decided October 6, 2020

SUMMARY

The Maine Supreme Judicial Court affirmed a Probate Court judgment terminating the parental rights of both parents in anticipation of adoption by the child's maternal aunt and uncle. The court held that the incarcerated father received a meaningful opportunity to participate in the termination hearing by telephone and that the Probate Court properly considered the federal criminal sentence reflected in the sentencing transcript. The court also addressed the sufficiency of the evidence supporting parental unfitness and the child's best interests.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Mead, J.; Gorman, J.; Jabar, J.; Humphrey, J.; Horton, J.; Connors, J.
JURISDICTION	Maine
DECIDED	October 6, 2020
DOCKET	And-19-491
DISPOSITION	affirmed
PROCEDURAL POSTURE	The parents appealed from the Androscoggin County Probate Court's judgment terminating their parental rights in anticipation of adoption by the child's maternal aunt and uncle.
STANDARD OF REVIEW	Denial of a motion to continue is reviewed for abuse of discretion, but when due process is implicated the court reviews whether the procedure was fundamentally fair. Evidentiary rulings are reviewed for clear error or abuse of discretion. Findings of parental unfitness are reviewed for clear error; the best-interest determination and ultimate decision to terminate parental rights are reviewed for clear error or abuse of discretion. When the burden below is clear and convincing evidence, the appellate court asks whether the fact-finder could reasonably have been persuaded that the required findings were highly probable.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Father, Mother v. Maternal aunt and uncle

TOPICS

termination of parental rights

adoption

parental rights

due process

evidence

PRACTICE AREAS

family law

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QUESTIONS PRESENTED

1. Whether the father's due-process rights were violated when the Probate Court denied continuances and permitted him to participate in the termination hearing by telephone rather than by live video.
2. Whether the Probate Court improperly took judicial notice of or admitted portions of the transcript of the father's federal sentencing hearing.
3. Whether competent evidence supported findings that the mother and father were unfit to parent the child.
4. Whether termination of each parent's parental rights was in the child's best interest.
5. Whether the existence of a safe and nurturing guardianship necessarily precluded termination of parental rights in anticipation of adoption.

HOLDINGS

1. The father's due-process rights were not violated because the Probate Court provided him a meaningful opportunity to participate in the termination hearing by telephone, with appointed counsel physically present, opportunities for private consultation, and an open record while video participation was explored.
2. The Probate Court did not err or abuse its discretion by considering the portion of the federal sentencing transcript reflecting the sentence imposed, because that portion constituted the federal court's order and was cumulative of the properly admitted criminal judgment.
3. The evidence supported the Probate Court's findings that the mother had abandoned the child and that termination of her parental rights was in the child's best interest.
4. The evidence supported the finding that the father was unable to take responsibility for the child within a time reasonably calculated to meet the child's needs and therefore was unfit to parent.
5. Evidence of a safe and nurturing guardianship, even one arranged or consented to by the parent, must be considered in determining the child's best interest but does not necessarily preclude termination of parental rights.

KEY QUOTATIONS

“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” (¶ 9)

“When a parent is known to be incarcerated in advance of a hearing, the court must, upon request by the parent, provide a meaningful opportunity for the parent to participate in the hearing whether in person, by

telephone or video, through deposition, or by other means that will reasonably ensure an opportunity for the parent to be meaningfully involved in the hearing.” (§ 11)

“We reiterate that the father’s incarceration alone would not constitute sufficient evidence to support a finding of unfitness” (§ 20)

“evidence of that nature will necessarily preclude a finding that termination of parental rights is in the child’s best interest” (§ 22)

FACTUAL BACKGROUND

The child was born while both parents were incarcerated and initially entered the custody of the Maine Department of Health and Human Services. Although the father later obtained custody, the child experienced frequent school absences and tardiness, inadequate medical care, and developmental difficulties while in the father's care; the father was subsequently sentenced to sixty months in federal prison followed by three years of supervised release. The child lived with the maternal grandmother and then with the maternal aunt and uncle, who became legal guardians and provided a structured, safe, and nurturing home in which the child improved academically, medically, physically, emotionally, and socially. The mother had little or no meaningful contact with the child and had a significant history of substance abuse, mental-health problems, criminal activity, and incarceration.

PROCEDURAL HISTORY

The maternal aunt and uncle, who were the child's legal guardians, petitioned for termination of both parents' parental rights and for adoption. After a three-day termination hearing, at which the incarcerated father participated by telephone, the Probate Court terminated both parents' parental rights. The parents timely appealed, challenging the sufficiency of the evidence, the father's telephonic participation, and the admission or consideration of part of the father's federal sentencing transcript.

DISPOSITION

affirmed

CASES CITED

- In re Boardman, 2017 ME 131, ¶ 4, 166 A.3d 106
- Adoption by Stefan S., 2020 ME 5, ¶¶ 2-3, 10, 19, 223 A.3d 468
- Guardianship of Ard, 2017 ME 12, ¶ 15, 154 A.3d 609
- In re A.M., 2012 ME 118, ¶¶ 14-16, 20, 22, 26-27, 55 A.3d 463
- In re Randy Scott B., 511 A.2d 450, 452-54 (Me. 1986)
- Mathews v. Eldridge, 424 U.S. 319, 333, 335 (1976)
- In re Alijah K., 2016 ME 137, ¶¶ 4, 14, 16, 147 A.3d 1159
- Commonwealth v. Heywood, 484 Mass. 43, 46 (Mass. 2020)
- Morales v. Artuz, 281 F.3d 55, 61 & n.3 (2d Cir. 2002)

- State v. Churchill, 2012 ME 121, ¶ 6, 32 A.3d 1026
- State v. Hussein, 2019 ME 74, ¶ 10, 208 A.3d 752
- In re Jonas, 2017 ME 115, ¶ 38 n.10, 164 A.3d 120
- Cabral v. L'Heureux, 2017 ME 50, ¶¶ 10-11, 157 A.3d 795
- Grogan v. Garner, 498 U.S. 279, 284-85 (1991)
- Osborne v. Kakas, No. 17-CV-00254, 2018 U.S. Dist. LEXIS 42729, at *3-4 (E.D. Tex. Feb. 15, 2018)
- United States v. Cox, 851 F.3d 113, 120 (1st Cir. 2017)
- Cyr v. Cyr, 432 A.2d 793, 797 (Me. 1981)
- Springer v. Springer, 2009 ME 118, ¶ 2, 984 A.2d 828
- State v. Robbins, 2012 ME 19, ¶¶ 2-4, 37 A.3d 294
- Adoption of Lily T., 2010 ME 58, ¶¶ 21, 22, 37, 37 n.6, 39, 997 A.2d 722
- In re Daniel C., 480 A.2d 766, 768-69 (Me. 1984)
- In re Children of Corey W., 2019 ME 4, ¶ 19, 199 A.3d 683
- In re Child of Amber L., 2018 ME 91, ¶¶ 7-8, 188 A.3d 876
- In re Children of Nicole M., 2018 ME 75, ¶¶ 12, 26-27 & n.9, 187 A.3d 1
- In re Children of Meagan C., 2019 ME 129, ¶ 20, 214 A.3d 9
- In re Michaela C., 2002 ME 159, ¶¶ 26-31, 27, 809 A.2d 1245
- In re Scott S., 2001 ME 114, ¶¶ 12-16, 19-20, 775 A.2d 1144
- In re Marcus S., 2007 ME 24, ¶¶ 9-11, 916 A.2d 225

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