

IN RE XAVIER H.

Submitted on Briefs September 27, 2011

Decided September 29, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and
JABAR, JJ.

MEMORANDUM OF DECISION

The parents of Xavier H. appeal from a judgment of the District Court (Portland, *Powers, J.*) terminating their parental rights pursuant to 22 M.R.S. § 4055 (2010). Contrary to their contention, the court did not create a substantial potential for error when it denied them a continuance because a Department of Health and Human Services caseworker was unavailable to testify, and therefore did not violate their right to due process. *See In re Pricilla D.*, 2010 ME 103, ¶ 18, 5 A.3d 677. Furthermore, the court did not abuse its discretion in denying the continuance given the evidence admitted at the hearing that was independent of the caseworker's involvement. *See In re Trever I.*, 2009 ME 59, ¶ 28, 973 A.2d 752. Finally, the court's reference in its judgment to the number of trial placements with the parents, if not simply an imprecise reference to the number of times that visitation with the child was suspended, is harmless error. *See In re Michaela C.*, 2002 ME 159, ¶ 20, 809 A.2d 1245 (stating that an error is harmless if it is highly probable that it did not affect the outcome of the termination proceedings).

The entry is:

Judgment affirmed.

On the briefs:

Michael G. Keefe, Esq., Portland, for appellant father

Seth Berner, Esq., Portland, for appellant mother

William J. Schneider, Attorney General, and Martha J. Hallisey-Swift, Asst. Atty. Gen., Augusta, for appellee Department of Health and Human Services

Portland District Court docket number PC-2008-94
FOR CLERK REFERENCE ONLY