

IN RE XZARIUS W.

Submitted on Briefs: January 30, 2012

Decided February 23, 2012

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

The parents of Xzarius W. appeal from a judgment of the District Court (Biddeford, *Foster, J.*) terminating their parental rights pursuant to 22 M.R.S. § 4055(1)(B)(2) (2011). On appeal, the parents argue that the court's decision to terminate based on parental unfitness was not supported by clear and convincing evidence, as required by 22 M.R.S. § 4055. Contrary to the mother's argument, the court did not err in considering facts established in prior termination orders in addition to testimony at the termination hearing. *See In re Scott S.*, 2001 ME 114, ¶ 13, 775 A.2d 1144. Similarly, the Department was relieved of the duty to commence reunification efforts for the mother, including efforts to assess the mother's mental health, after the court found an "aggravating factor" as part of its jeopardy order. *See* 22 M.R.S. § 4041(2)(A-2)(1) (2011). The court had sufficient evidence to rationally find both the father and mother were unable or unwilling to protect the child from jeopardy or take responsibility for the child within a time that is reasonably calculated to meet the child's needs. *See In re Higerá N.*, 2010 ME 77, ¶ 29, 2 A.3d 265.

The entry is:

Judgment affirmed.

On the briefs:

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