

IN RE SAMANTHA M.

Submitted on Briefs March 1, 2012
Decided March 20, 2012

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

MEMORANDUM OF DECISION

The mother and father of Samantha M. appeal from a judgment of the District Court (Augusta, *Mullen, J.*) terminating their parental rights to Samantha, pursuant to 22 M.R.S. §§ 4050-59 (2011). The parents assert that the court's findings of fact were insufficient to (1) demonstrate that the court critically assessed the evidence presented by the parents, or (2) support the court's conclusion that the parents were unfit. They also contend that the court erred by applying the rebuttable presumption of parental unfitness pursuant to 22 M.R.S. § 4055(1-A)(E) (2011).

Contrary to the parents' contentions, the court did not err. Although the court's findings of fact do, in several instances, appear to adopt by reference portions of written reports that were received in evidence, the court's findings of fact are otherwise sufficient to both support the court's legal conclusions and show that the court considered, but did not find credible, the parents' evidence. *See In re Marpheen C.*, 2002 ME 170, ¶ 5, 812 A.2d 972 (noting that the court is free to reject testimony and evidence it does not find credible, even if uncontradicted).

Furthermore, the findings support the court's application of the rebuttable presumption, based on the parents' failure to make any significant effort to alleviate jeopardy for the child after she was removed from their custody. *See* 22 M.R.S. § 4055(1-A)(E). Thus, the court properly concluded that the evidence supported a finding, by clear and convincing evidence, of at least one ground of parental unfitness. *See In re Charles G.*, 2001 ME 3, ¶ 5, 763 A.2d 1163.

The entry is:

Judgment affirmed.

On the briefs:

Tyler J. Smith, Esq., Biddeford, for appellant father

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Office of the Attorney General, Augusta, for appellee Department of Health
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