

IN RE ZHANE M. et al.

Argued April 13, 2012
Decided May 8, 2012

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

MEMORANDUM OF DECISION

The father of Zhane, Aasyhia, Samirha, and Jamal M. appeals from a judgment entered in the District Court (Portland, *Powers, J.*) terminating his parental rights to the four children pursuant to 22 M.R.S. § 4055(1)(B)(2) (2011).

Contrary to the father’s contentions, there is sufficient evidence in the record to support the court’s findings of unfitness by clear and convincing evidence, regardless of the adequacy of the reunification efforts provided by the Department of Health and Human Services.¹ *See* 22 M.R.S. § 4055(1)(B)(2)(b)(i), (ii); *In re Marcus S.*, 2007 ME 24, ¶ 6, 916 A.2d 225 (stating that factual findings in parental termination cases are reviewed for clear error “by determining whether there is any competent evidence in the record to support them”); *In re Doris G.*, 2006 ME 142, ¶ 16, 912 A.2d 572 (noting that the Department’s failure to satisfy reunification obligations does not preclude termination of parental rights).

In addition, on this record, terminating parental rights instead of placing the children out of state with their grandparents did not violate the father’s substantive due process rights. *See Adoption of Tobias D.*, 2012 ME 45, ¶ 17, --- A.3d --- (“[T]he procedures, burdens, and standards set out in section 4055 constitute the means by which the fundamental constitutional right to parent is safeguarded.”); *In re Daniel C.*, 480 A.2d 766, 770 (Me. 1984) (rejecting the “notion that we must

¹ During the pendency of this appeal, the Department filed a motion, which the father opposed, requesting that we take judicial notice of the father’s guilty plea in a separate criminal proceeding. Because we conclude that the record otherwise contained sufficient evidence to support the court’s fitness determination, the Department’s motion is moot.

read into the statute, as constitutionally required, proof of reunification efforts as a discrete element”).

The entry is:

Judgment affirmed.

On the briefs:

N. Seth Levy, Esq., Brunswick, for appellant father

William J. Schneider, Attorney General, and Nora Sosnoff, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Health and Human Services

At oral argument:

N. Seth Levy, Esq., for appellant father

Nora Sosnoff, Asst. Atty. Gen., for appellee Department of Health and Human Services