

GUARDIANSHIP OF LINDSEY F.

Submitted on Briefs May 24, 2012

Decided May 31, 2012

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

MEMORANDUM OF DECISION

The mother of Lindsey F. appeals from a judgment of the Cumberland County Probate Court (*Mazziotti, J.*) appointing a guardian for her adult daughter, Lindsey F. The court found, and the mother concedes, that Lindsey is incapacitated within the meaning of 18-A M.R.S. § 101(1) (2011), and that a guardianship is “necessary or desirable as a means of providing continuing care and supervision” of Lindsey. *See* 18-A M.R.S. § 5-304(b) (2011). Contrary to the mother’s contentions, however, the court neither clearly erred nor exceeded its discretion in appointing the Department of Health and Human Services as Lindsey’s guardian; there is ample evidence in the record to support the court’s determination, by clear and convincing evidence, that the mother would be an unsuitable guardian for Lindsey, *see* 18-A M.R.S. § 5-602 (2011), and that appointment of the Department is in Lindsey’s best interest and will foster Lindsey’s independence and self reliance, *see* 18-A M.R.S. § 5-304(a). *See Estate of Bragdon*, 2005 ME 85, ¶ 11, 875 A.2d 697; *In re Cyr*, 2005 ME 61, ¶ 16, 873 A.2d 355. We also discern no constitutional violation to the mother in the appointment of the Department as Lindsey’s guardian. *See In re Amberley D.*, 2001 ME 87, ¶ 23, 775 A.2d 1158.

The entry is:

Judgment affirmed.

**On the briefs:**

Shira S. Panelli, Esq., Strike, Goodwin & O'Brien, Portland, for appellant mother

William J. Schneider, Attorney General, Justin B. Barnard, Asst. Atty. Gen., and Christopher Leighton, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Health and Human Services

Cumberland County Probate Court docket number 2010-1494  
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