

IN RE SHELBY D. et al.

Submitted on Briefs January 19, 2017

Decided January 31, 2017

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

MEMORANDUM OF DECISION

The father of Shelby D. and Aubrey D. appeals from a judgment of the District Court (Calais, *D. Mitchell, J.*) terminating his parental rights with respect to his minor children. On appeal, the father argues that there was insufficient evidence to support the court's findings of fact contributing to its findings of parental unfitness, and that he was denied due process when the Department of Health and Human Services failed to arrange a type of therapy recommended in his Court Ordered Diagnostic Evaluation (CODE) when, he contends, the failure to participate in that service contributed to the court's findings of unfitness.

There is clear and convincing evidence in the record to support the court's factual findings and its finding of at least one ground of parental unfitness. *See* 22 M.R.S. § 4055(1)(B)(2)(b) (2016); *In re M.B.*, 2013 ME 46, ¶ 37, 65 A.3d 1260. As the court found, the children incurred numerous physical injuries while in the care of their father and his then-girlfriend, including black eyes, bruising, missing fingernails, and bite marks. Doctors' testimony suggested at least some of these injuries were inflicted by an adult. The court also did not err in finding that the father has failed to address risk factors identified in the CODE. Additionally, we discern no abuse of discretion in the court's determination that termination of the father's parental rights is

in the best interest of the children. *See In re M.S.*, 2014 ME 54, ¶ 15, 90 A.3d 443.

We find no merit in the father's claim that he was denied due process by the Department's failure to refer him to a specific model of therapy. Although the court found that the father's therapist, to whom the Department referred the father, failed to initiate a therapy model recommended in the CODE, the court's decision was based more generally on the father's failure to address the risks identified in the CODE.

The entry is:

Judgment affirmed.

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Arnold S. Clark, Esq., Fletcher Mahar & Clark, Calais, for appellant father

Janet T. Mills, Attorney General, and Meghan Szylvian, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Health and Human Services