MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 17-116
Docket No. Yor-17-312

IN RE HARMONEE S. et al.

Submitted on Briefs November 29, 2017
Decided December 12, 2017

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

MEMORANDUM OF DECISION

The father of Harmonee S. and Wesley S. appeals from two related judgments entered by the District Court (Springvale, *Foster, J.*). One judgment dismissed a petition for child protection filed by the Department of Health and Human Services. The other judgment amended the parents' divorce judgment to give the mother sole parental rights and responsibilities, including primary physical residence, and to restrict the father's contact with the children. The court entered both judgments pursuant to 22 M.R.S. § 4036(1-A) (2017) based on its findings that the father's conduct placed the children in jeopardy and that the amendments to the divorce judgment will serve the children's best interests. We affirm the judgments.[1]

Contrary to the father's contention, the court did not err by finding, with support in the record, that he had systematically abused at least one other child in his care and consequently presented a threat of harm to his own children. *See* 22 M.R.S. § 4002(6)(A) (2017); *In re Nicholas S.*, 2016 ME 82, ¶ 9, 140 A.3d 1226; *In re Adrian D.*, 2004 ME 144, ¶ 12, 861 A.2d 1286 ("A court may rely on a parent's behavior with respect to one child in

[1] We address the merits of the appeal from the dismissal of the child protection petition because the collateral consequences of a finding of jeopardy against a parent constitute an exception to the mootness doctrine. *See In re Nicholas S.*, 2016 ME 82, ¶¶ 7-8, 140 A.3d 1226.

assessing whether another child in the parent's care also faces jeopardy."). Further, the court did not abuse its discretion by amending the parents' divorce judgment based on its determinations that the modifications will protect the children from jeopardy posed by the father and are in the children's best interest. *See* 22 M.R.S. § 4036(1-A); *In re Paige L.*, 2017 ME 97, 162 A.3d 217; *Sloan v. Christianson*, 2012 ME 72, ¶ 38, 43 A.3d 978.

The father also asserts that the court erred by denying his motion to dismiss the child protection petition at the time of the hearing because the hearing was held—and therefore the jeopardy order was entered—more than 120 days after the petition was filed. *See* 22 M.R.S. § 4035(4-A) (2017) ("The court shall issue a jeopardy order within 120 days of the filing of the child protection petition. The time period does not apply if good cause is shown. Good cause does not include a scheduling problem.").[2] As the court correctly noted in denying the father's motion to dismiss the petition, the pretrial proceedings involving appointment of counsel for each of the parents caused some delay. Additionally, at the conclusion of the hearing and without objection from any party, the court granted time for the parties and the guardian ad litem to file additional submissions. Therefore, without reaching the question of the potential remedies that may be available when a jeopardy order is not issued within the statutory 120-day period, we conclude that the court did not err by declining to dismiss the petition because there was good cause for that limit to be exceeded.

The entry is:

Judgments affirmed.

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[2] The order dismissing the child protection petition was entered 176 days after the petition was filed.

Stephen H. Shea, Esq., Fairfield & Associates, P.A., Portland, for appellant father

Janet T. Mills, Attorney General and Meghan Szylvian, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee State of Maine

Springvale District Court docket numbers PC-2017-02 & FM-2013-449
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