

IN RE GENEVIEVE M. et al.

Submitted on Briefs February 23, 2017
Decided March 7, 2017

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

MEMORANDUM OF DECISION

The mother of Genevieve M. appeals from a judgment of the District Court (Portland, *Powers, J.*) terminating her parental rights to Genevieve M.¹ On appeal, the mother argues that (1) there was insufficient evidence to support the court's findings; (2) she was denied due process because the Department of Health and Human Services, she alleges, abandoned reunification services, which precludes termination; (3) the court erred in applying the preference for permanency pursuant to 22 M.R.S. § 4050 (2016); and (4) the court abused its discretion when it denied her motions to reopen evidence and for a new trial.

Contrary to the mother's contentions, there is sufficient evidence in the record to support the court's findings, by clear and convincing evidence, of at least one ground of parental unfitness and that termination is in the best interest of the child. *See* 22 M.R.S. § 4055(1)(B)(2) (2016); *In re G.T.*, 2016 ME 2, ¶ 10, 130 A.3d 389. The evidence in the record indicates that the mother: (1) has chronic substance abuse and mental health issues, has been offered and has sometimes begun treatment and rehabilitation programs for those issues, but has failed or refused to participate successfully in those programs;

¹ The court also terminated the mother's parental rights of her other child, Liam M.; however, she does not appeal from that portion of the order. The fathers of both children are unknown, and their parental rights were terminated in a separate hearing prior to the order on appeal in this case.

(2) intends to plead guilty to a federal criminal charge of using a telephone to facilitate the distribution of cocaine base, which may lead to continued incarceration; (3) has no stable housing if released from incarceration; and (4) has not seen the child since August 2015.

We find no merit in the mother's contention that the Department wrongfully abandoned reunification services. *See In re Thomas D.*, 2004 ME 104, ¶ 28, 854 A.2d 195; *In re David H.*, 637 A.2d 1173, 1175-76 (Me. 1994). Furthermore, the court did not abuse its discretion by denying the mother's motions to present additional evidence when the court found that the proffered evidence "would not come close to changing the result," and the result was just. *See Estate of Fournier*, 2009 ME 17, ¶ 12, 966 A.2d 885; *Dolliver v. Dolliver*, 2001 ME 144, ¶ 10, 782 A.2d 316; *Davis v. Currier*, 1997 ME 199, ¶¶ 7-8, 704 A.2d 1207; *Dep't of Human Servs. v. Thibeault*, 561 A.2d 486, 487-88 (Me. 1989).

The child has been living with the maternal grandmother for one-and-a-half years in what was described as a "loving, clean, non-chaotic environment." The child and grandmother have a good relationship, and the child is doing well in day care. The court did not abuse its discretion by determining that termination of the mother's parental rights is in the best interest of the child.² *See In re J.V.*, 2015 ME 163, ¶ 13, 129 A.3d 958.

The entry is:

Judgment affirmed.

Edward S. MacColl, Esq., Thompson, MacColl & Bass, LLC, Portland, for appellant mother

² The issue of who should adopt Genevieve M. must be decided in a title 18-A adoption case, *see* 18-A M.R.S. § 9-103(b) (2016), not through the trial court's determination that adoption is the permanency plan for this child, *see* 22 M.R.S. § 4038-B(4)(A) (2016).

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.

Portland District Court docket numbers PC-2014-102 and PC-2014-117
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