

IN RE DAKOTA S.

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 Dakota S. appeals from a judgment of the District Court (Augusta, *E. Walker, J.*) finding that the child would be in circumstances of jeopardy if placed in the custody of his father. *See* 22 M.R.S. § 4035 (2016). Contrary to the father's assertions, the record evidence was sufficient for the court to find, by a preponderance of the evidence, that the child would be in jeopardy if removed from his current placement and returned to the custody of the father, even though the father is not the primary cause of the child's jeopardy. *See* 22 M.R.S. § 4002(6)(A), (10) (2016); *In re Z.S.*, 2015 ME 110, ¶ 6, 121 A.3d 1286; *In re Colby E.*, 669 A.2d 151, 152 (Me. 1995). The court's finding that removing the child from the care of his grandmother, with whom he had lived for eleven of his twelve years, would severely damage his fragile mental health is sufficient to support the finding of jeopardy. We also discern no error in the District Court's finding that the Department of Health and Human Services made reasonable rehabilitation and reunification efforts pursuant to 22 M.R.S. § 4041 (2016).

Additionally, we conclude that the District Court did not abuse its discretion when it denied the father's post-hearing motion to reopen the record for the testimony of two additional witnesses. *See* M.R. Civ. P. 43(j);

In re Danielle S., 2004 ME 19, ¶ 2, 844 A.2d 1148; *Light v. D'Amato*, 2014 ME 134, ¶ 27, 105 A.3d 447.

The entry is:

Judgment affirmed.

Newell A. Augur, Esq., Augur & Associates, P.A., Augusta, for appellant father

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

Augusta District Court docket number PC-2015-56
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