GUARDIANSHIP OF JAKE H.

Argued May 16, 2018
Decided July 12, 2018

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

MEMORANDUM OF DECISION

Following actions initiated in 2011, in 2012, the Hancock County Probate Court (*Patterson, J.*) appointed the maternal grandparents of Jake H. as his limited guardians, *see* 18-A M.R.S. §§ 5-204(a), 5-206, 5-207 (2015), and the District Court (Ellsworth, *Lucy, J.*) awarded shared parental rights to Jake's mother and father, *see* 19-A M.R.S. § 1653 (2015), with the award to take effect only upon termination of the guardianship.[1]

In 2015, in the Probate Court, Jake's father filed a petition to terminate the guardianship. *See* 18-A M.R.S. § 5-210 (2015). The maternal grandparents then filed in the Probate Court a complaint to determine parental rights and responsibilities, seeking to be determined Jake's de facto parents. *See* 19-A

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[1] All actions and proceedings at issue in this matter were initiated and pending prior to the effective date of the Maine Parentage Act, P.L. 2015, ch. 296 §§ A-1, D-1 (effective July 1, 2016) (codified, in relevant part, at 19-A M.R.S. § 1891 (2017)), and the Home Court Act, P.L. 2015, ch. 460 (effective July 29, 2016) (codified, in part, at 4 M.R.S. §§ 152(5-A), 251-A (2017)). Although the decision subject to this appeal was issued after those laws took effect, by operation of 1 M.R.S. § 302 (2017), "[a]ctions and proceedings pending at the time of" the effective date of new laws "are not affected thereby." *Id.*; *accord MacImage of Me., LLC v. Androscoggin Cty.*, 2012 ME 44, ¶ 22, 40 A.3d 975. Thus, the referenced statutes are those in effect prior to the effective date of the two new laws affecting authority or jurisdiction over parental rights matters.

M.R.S. § 1654 (2015) (authorizing the District Court and the Probate Court to award parental rights and responsibilities to a parent).

After a 2016 hearing, the Probate Court (*Blaisdell, J.*) denied both the father's petition to terminate the guardianship and the maternal grandparents' complaint seeking de facto parent status. The Probate Court also denied the maternal grandparents' subsequent motion to amend the judgment and for further findings. The maternal grandparents appeal from that decision. They argue that "overwhelming" evidence supported their de facto parent claim. Jake's father contends that the Probate Court lacked jurisdiction to hear the maternal grandparents' complaint seeking de facto parent status.

Court intrusion into a parent-child relationship is limited "to those instances in which there is some urgent reason or there are exceptional circumstances affecting the child that justify the intrusion." *Pitts v. Moore*, 2014 ME 59, ¶ 12, 90 A.3d 1169 (footnote omitted). A person claiming de facto parent status has the burden to prove the necessary elements of that claim by clear and convincing evidence. *Id.* ¶ 27.

The maternal grandparents, having the burden of proof at trial, can prevail on a sufficiency of the evidence challenge to the finding that their burden was not met only if they can demonstrate that a finding of de facto parent status was compelled by the evidence. *See St. Louis v. Wilkinson Law Offices, P.C.*, 2012 ME 116, ¶ 16, 55 A.3d 443; *Handrahan v. Malenko*, 2011 ME 15, ¶ 13, 12 A.3d 79. Our review of the record before the Probate Court demonstrates that such a finding was not compelled. Accordingly, the Probate Court's judgment denying the maternal grandparents' petition must be affirmed. Because we affirm the Probate Court's judgment, we do not reach Jake's father's contention that the Probate Court lacked authority to consider the maternal grandparents' parental rights claim.

The entry is:

Judgment affirmed.

Barbara A. Cardone, Esq. (orally), Gross, Minsky & Mogul, P.A., Bangor, for appellants maternal grandparents

Ferdinand A. Slater, Esq. (orally), Ellsworth, for appellee father

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