

ADOPTION BY MICHELLE H.

Argued on October 5, 2021
Decided November 30, 2021

Panel: STANFILL, C.J., and MEAD, GORMAN, JABAR, HUMPHREY, HORTON,
and CONNORS, JJ.

MEMORANDUM OF DECISION

Michelle and Michael H. appeal from a judgment of the District Court (Skowhegan, *Nale, J.*) denying their petition for adoption of their grandchild, and in turn, granting the competing adoption petition of the child's foster parents. The grandparents argue on appeal that the court erred by not holding a prior and separate hearing to determine the reasonableness of the Department of Health and Human Services' withholding of consent to the adoption by the foster parents before proceeding to the merits of the adoption petitions pursuant to 18-C M.R.S. § 9-302 (2021), and in granting the foster parents' adoption petition without ensuring that all of the procedural prerequisites for a valid adoption in 18-C M.R.S. § 9-308 (2021) were in place. Although the process challenged by the grandparents is not one that we expect to be used in the future, the record demonstrates that all parties, including the grandparents, requested this process, and waived—in writing—any objections to the way the adoption proceeding was conducted. Even the Department, with its vast familiarity with adoption proceedings and its obligation to ensure that all statutory requirements were met, expressed no concerns with or objections to the process used.

The grandparents also argue that the court erred by finding that the Department acted unreasonably when it withheld consent from the foster parents to adopt the child. The record, however, contains competent evidence to support the court's findings, by a preponderance of the evidence, that the

Department acted unreasonably, and no abuse of discretion is evident in the court's findings.¹ See 18-C M.R.S. § 9-302(1)(C). Finally, the record also contains competent evidence to support the court's granting of the foster parents' adoption petition.

The entry is:

Judgment affirmed.

Julian Richter, Esq. (orally), Richter Law, LLC, Gardiner, for appellants Michelle and Michael H.

Kevin P. Sullivan, Esq. (orally), Sullivan Law, P.C., Gardiner, for appellees foster parents

Aaron M. Frey, Attorney General, Meghan Szylvian, Asst. Atty. Gen., and Hunter Umphrey, Asst. Atty. Gen. (orally), Office of the Attorney General, Augusta, for appellee Department of Health and Human Services

Skowhegan District Court docket numbers FM-2020-279 and FM-2020-313
FOR CLERK REFERENCE ONLY

¹ The grandparents also argue for the first time on appeal that the court's comment that it was "going to be hard pressed [to find] . . . that the [foster parents] aren't a reasonable placement resource for this child," indicates that the court was not waiting for all the evidence and was biased in favor of the foster parents. The court, however, corrected itself almost immediately after its initial comment when it noted "I'm not pre-judging. I'm just looking to see if there's - - if what I'm saying makes any sense." Although the court did misspeak, the grandparents' argument that the court demonstrated bias is not persuasive as the court did not demonstrate any bias in this case. See, e.g., *In re Children of Melissa F.*, 2018 ME 110, ¶ 15, 191 A.3d 348.