

IN RE CHILDREN OF JILLIAN M.

Submitted on Briefs July 13, 2021

Decided July 20, 2021

Panel: MEAD, GORMAN, JABAR, HUMPHREY, and HORTON, JJ.

MEMORANDUM OF DECISION

Jillian M. and the father of one of the two children at issue in this matter appeal from a judgment of the District Court (Bangor, *Jordan, J.*) terminating their parental rights to the children. *See* 22 M.R.S. § 4055(1)(A)(1)(a), (B)(2)(a), (b)(i), (ii), (iv) (2021). Contrary to their contentions, (1) the court could properly consider evidence regarding the parents' erratic visitation with their infant child, born during these proceedings, even though that child is not a subject of this termination petition, because it is relevant to parental ability and capacity, *see id.* § 4055(1)(B)(2)(b)(i), (ii); M.R. Evid. 401-402; (2) the record does not demonstrate that the remotely held hearing undermined the court's ability to find facts and determine the credibility of the witnesses such that the father was deprived of a fair trial and suffered a substantial injustice, *see In re Child of Sherri Y.*, 2019 ME 162, ¶ 10, 221 A.3d 120; *In re Joshua B.*, 2001 ME 115, ¶ 9, 776 A.2d 1240; (3) a review of the record as a whole "demonstrates that the trial court rationally could have found clear and convincing evidence in that record to support the necessary factual findings as to the bases for termination,"¹ *In re Children of Jason C.*, 2020 ME 86, ¶ 7, 236 A.3d 438 (quotation marks omitted); and (4) the court did not abuse its discretion in determining that termination of the parents' parental rights was in the children's best interests, *see In re Thomas H.*, 2005 ME 123, ¶ 16, 889 A.2d 297.

¹ We disagree with the father's contention that ultimate findings of unfitness should be reviewed de novo.

The entry is:

Judgment affirmed.

Randy G. Day, Esq., Garland, for appellant Mother

Ashley T. Perry, Esq., Sanders, Hanstein & Carey, P.A., Farmington, for appellant Father

Aaron M. Frey, Attorney General, and Hunter C. Umphrey, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Health and Human Services

Bangor District Court docket numbers PC-2018-110 & PC-2018-111
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