MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 23-140
Docket No. Han-23-91

IN RE CHILDREN OF JILLIAN M.

Submitted on Briefs September 27, 2023
Decided November 28, 2023

Panel: STANFILL, C.J., and MEAD, JABAR, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Jillian M. and the father appeal from a judgment of the District Court (Ellsworth, *Harrigan, J.*) terminating their parental rights to their children.[1] Contrary to the parents' contentions, the record evidence fully supports the trial court's findings that they are unwilling or unable to protect the children from jeopardy within a reasonable time to meet the children's needs, that they are unwilling or unable to take responsibility for them in time to meet their needs, and that they have failed to make a good faith effort to rehabilitate and reunify with the children. *See* 22 M.R.S. § 4055(1)(B)(2)(b)(i)-(ii), (iv) (2023); *see also In re Children of Jason C.*, 2020 ME 86, ¶¶ 7-9, 236 A.3d 438; *In re Child of Amber D.*, 2020 ME 30, ¶¶ 6-7, 226 A.3d 1157. As to the father's additional contentions, we discern no error in the trial court's determination that he had failed to make sufficient progress toward reunification. *See In re Child of Scott A.*, 2019 ME 123, ¶ 14, 213 A.3d 117; 22 M.R.S. § 4041 (2023); *see also In re Alexander D.*, 1998 ME 207, ¶ 20, 716 A.2d 222. Further, the father's due

[1] The mother and father are the biological parents of the younger child, and the mother is the biological parent of the older child, whose biological father is deceased. Although the older child turned eighteen years of age during the pendency of this appeal, the matter is not moot. *See, e.g., In re Ciara H.,* 2011 ME 109, ¶¶ 2-4, 30 A.3d 835 (holding that the collateral consequences exception to the mootness doctrine applies in these circumstances).

process challenge is unpersuasive.[2] *In re Child of James R.*, 2018 ME 50, ¶ 17, 182 A.3d 1252; *see also In re Child of Kenneth S.*, 2022 ME 14, ¶ 22, 269 A.3d 242 ("[T]o assert a procedural due process error on appeal, a party must articulate an identifiable prejudice."). Finally, the trial court did not abuse its discretion in determining that termination of the parents' parental rights was in the children's best interests. *See* 22 M.R.S. § 4055(1)(B)(2)(a).

The entry is:

Judgment affirmed.

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

William B. Blaisdell, IV, Esq., Blaisdell & Blaisdell, Ellsworth, for appellant Father

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

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[2] The father contends his due process rights were violated because a judicial review hearing was not held for over fifteen months prior to issuance of the termination order, depriving him of the guidance needed to reunify with his child. Judicial reviews were timely held in June and November 2021; however, none were held between November 2021 and the issuance of the termination order in March 2023. By statute, courts are required to conduct a judicial review hearing "at least once every 6 months," even after a termination petition has been filed and is pending. 22 M.R.S. § 4038(1) (2023) ("If a court has made a jeopardy order, it shall review the case at least once every 6 months, unless the child has been emancipated or adopted."). In the circumstances presented, the father has not demonstrated any prejudice to support his due process challenge. He did not personally appear for the earlier judicial review hearings (and only appeared through counsel). He did not request a judicial review at any point after November 2021. He was on notice from early in the case about what he needed to do to reunify with his child. And he was provided ample opportunity to ameliorate the circumstances of jeopardy.