

IN RE CHILD OF JASON L.

Submitted on Briefs November 29, 2023

Decided December 14, 2023

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

MEMORANDUM OF DECISION

Jason L. appeals from a judgment of the District Court (Biddeford, *Duddy, J.*) terminating his parental rights to his child. Contrary to the father's contentions, the court did not commit obvious error in allowing the termination proceeding to continue, regarding the mother, in the absence of the father's counsel.¹ See *In re Child of Corey B.*, 2020 ME 3, ¶¶ 6, 8, 12, 223 A.3d 462; *In re Child of Lacy H.*, 2019 ME 110, ¶ 9, 212 A.3d 320; *In re Child of James R.*, 2018 ME 50, ¶ 16, 182 A.3d 1252; M.R. Evid. 103(d).

In what certainly was a less than ideal circumstance, the father's counsel had to be absent for a portion of one hearing date, due to a conflict with another child-protection proceeding. The father's counsel was appropriately present for the entirety of the other three hearing dates, as is the expected norm in such proceedings. The court carefully crafted a thoughtful solution to address the unique circumstances of the limited absence of the father's counsel, and the father's counsel either agreed with or did not object to the court's procedural

¹ The termination of the mother's parental rights was also at issue during the first three of four hearing dates in this matter, but the mother's parental rights are not at issue on appeal. Separately, we reject the State's contention that the father waived his argument.

decisions.² The court's procedural decisions adequately protected the father's due process right to respond to the mother's unexpected testimony concerning the father that occurred while his counsel was absent.³ See *In re Child of Kenneth S.*, 2022 ME 14, ¶¶ 22-27, 269 A.3d 242; *In re M.B.*, 2013 ME 46, ¶¶ 29, 34, 65 A.3d 1260; *In re A.M.*, 2012 ME 118, ¶¶ 24-25, 55 A.3d 463; see also M.R. Evid. 611(a).⁴

The entry is:

Judgment affirmed.

Jason A. MacLean, Esq., Bridgton, for appellant Jason L.

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

Biddeford District Court docket number PC-2021-26
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² The father was present during each hearing and did not object to the absence of his counsel.

³ The court, *inter alia*, allowed the father's counsel an opportunity to review an audio recording of the hearing date on which the father's counsel was partially absent, and, at a final hearing date months later, allowed the father's counsel an opportunity to question the mother regarding her testimony about the father and to call any witnesses, including the father, in rebuttal to that testimony.

⁴ On appeal, the father does not challenge the court's unfitness or best interest determinations. Regardless, we conclude that the court did not clearly err or abuse its discretion in terminating the father's parental rights. See, e.g., 22 M.R.S. § 4055(1)(B)(2) (2023); *In re Children of Christopher S.*, 2019 ME 31, ¶¶ 6-7, 9-11, 203 A.3d 808; *In re Child of Emily K.*, 2018 ME 79, ¶¶ 9-10, 187 A.3d 595.