

IN RE CHILD OF AUDRIA A.

Submitted on Briefs February 22, 2023
Decided March 2, 2023

Panel: MEAD, JABAR, HORTON, CONNORS, and LAWRENCE, JJ.

MEMORANDUM OF DECISION

Audria A. appeals from a judgment of the District Court (Bangor, *Lucy, J.*) terminating her parental rights to her child. *See* 22 M.R.S. § 4055(1)(A)(1)(a), (B)(2) (2022). Contrary to the mother’s contentions, the court did not err in finding, by clear and convincing evidence, that the mother was unwilling or unable to take responsibility for the child within a time reasonably calculated to meet the child’s needs. *See id.* § 4055(1)(B)(2)(b)(ii); *In re Child of Katherine C.*, 2019 ME 146, ¶ 2, 217 A.3d 68; *In re Child of Walter C.*, 2019 ME 121, ¶¶ 6-7, 213 A.3d 113; *In re Alana S.*, 2002 ME 126, ¶¶ 13, 21-23, 802 A.2d 976. Nor did the court err or abuse its discretion in finding that terminating the mother’s parental rights was in the best interest of the child.¹ *See* 22 M.R.S. § 4055(1)(B)(2)(a); *In re Thomas H.*, 2005 ME 123, ¶¶ 22-34, 889 A.2d 297.

¹ At the Department’s request, the trial court took judicial notice of the guardian ad litem reports. However, guardian ad litem reports “are not properly the subject of judicial notice unless the reports were previously admitted by the *same judge* in an earlier proceeding,” *In re Children of Anthony L.*, 2019 ME 62, ¶ 4 n.1, 207 A.3d 624; *see In re Caleb M.*, 2017 ME 66, ¶ 23, 159 A.3d 345, which is not the case here. *See also* 22 M.R.S. § 4005(1)(D) (2022) (“The court may admit the written report into evidence.”). But because the record contains sufficient other evidence on which the court could base its parental unfitness and best interest determination, this error is harmless. *See In re Child of Walter C.*, 2019 ME 121, ¶ 4 n.3, 213 A.3d 113.

The entry is:

Judgment affirmed.

Henry W. Griffin, Esq., Auburn, for appellant Audria A.

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

Bangor District Court docket number PC-2020-51
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