

ADULT GUARDIANSHIP AND CONSERVATORSHIP OF J.

Submitted on Briefs July 18, 2023

Decided August 24, 2023

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

MEMORANDUM OF DECISION

J. appeals from judgments entered by the York County Probate Court (*Houde, J.*) appointing the Department of Health and Human Services as his guardian and conservator after a bench trial. J. contends that the court erred by admitting in evidence the professional evaluation report produced pursuant to 18-C M.R.S. §§ 5-306, 5-407 (2023). Contrary to J.'s contentions, he never objected to the admission of the report on hearsay grounds, and although J. initially objected to the admission of the report on the grounds that the psychologist was not present to be cross-examined, his objection was later withdrawn. Following J.'s initial objection, the court indicated its intention to leave the record open if any party wished to cross-examine the psychologist at a later date. However, when the court subsequently asked J. through counsel whether he wished to have the psychologist appear to be cross-examined prior to the close of evidence, J. declined the opportunity and allowed the record to be closed. In declining the opportunity to cross-examine the psychologist, J. withdrew his objection to the admission of the report and therefore failed to preserve the issue for our review. *See Cote v. Vallee*, 2019 ME 156, ¶ 15, 218 A.3d 1148; *Sullivan v. Porter*, 2004 ME 134, ¶ 22, 861 A.2d 625.

There is sufficient evidence in the record to support the court's findings and determination that a full guardian and conservator was necessary to provide J. with adequate protection and money for his care and support. *See*

18-C M.R.S. §§ 5-301(1), 5-401(2) (2023); *Guardianship of Golodner*, 2017 ME 54, ¶ 9, 157 A.3d 762; *Estate of Bragdon*, 2005 ME 85, ¶ 13, 875 A.2d 697; *Guardianship of Hughes*, 1998 ME 186, ¶ 16, 715 A.2d 919.

The entry is:

Judgment affirmed.

Andrea S. Hewitt, Esq., Hewitt & Hewitt, Yarmouth, for appellant J.

Aaron M. Frey, Attorney General, and Cody M.P. Hopkins, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Health and Human Services

York County Probate Court docket number 2022-664
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