

JEREMIAH T. BRIAND

v.

CHELSEY M. GRAHAM

Submitted on Briefs March 27, 2024

Decided April 30, 2024

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

## MEMORANDUM OF DECISION

Jeremiah T. Briand, the father of the minor child, appeals from a judgment of the District Court (Springvale, *Moskowitz, J.*), following a consolidated hearing, that, inter alia, denied the petition of Joseph D. Graham, the child's maternal uncle, for appointment as the child's guardian; terminated an emergency order that had appointed the uncle as guardian; granted primary residence to the mother, Chelsey M. Graham; ordered transitional arrangements for the child to return to the mother's home; granted specific rights of contact to the father; awarded other parental rights and responsibilities to the mother and father; and denied the father's motion for contempt against the mother.<sup>1</sup>

Contrary to the father's contentions, the court did not clearly err or abuse its discretion in awarding primary residence of the child to the mother. *See Proctor v. Childs*, 2023 ME 6, ¶¶ 2, 6-8, 288 A.3d 815 ("In finding facts, the

---

<sup>1</sup> We consolidated the father's appeals.

trial court is the sole arbiter of witness credibility, and it is therefore free to accept or reject portions of the parties' testimony based on its credibility determinations and to give their testimony the weight it deems appropriate." (alteration and quotation marks omitted)); *Low v. Low*, 2021 ME 30, ¶¶ 9, 12, 251 A.3d 735; *Vibert v. Dimoulas*, 2017 ME 62, ¶¶ 16-17, 159 A.3d 325; *cf. Daniel v. McCoy*, 2023 ME 17, ¶¶ 5, 18-19, 290 A.3d 103 ("Although [a] court is required to consider the best interest factors, it need not robotically address every factor . . . so long as it is otherwise evident that the court has evaluated the evidence with the best interest factors in mind." (quotation marks omitted)); *Whitmore v. Whitmore*, 2023 ME 3, ¶¶ 5, 7-9, 288 A.3d 799.

Nor did the court abuse its discretion in establishing a temporary plan for the child to live with the uncle and attend school in the school system where the uncle resides to help the child transition back to the mother's home. *Cf. Guardianship of Donovan C.*, 2019 ME 118, ¶¶ 9, 17-18, 212 A.3d 851; *Guardianship of Gionest*, 2015 ME 154, ¶¶ 4, 6, 128 A.3d 1062. Here, the court determined that due to the termination of the emergency guardianship, transitional arrangements would be in the best interest of the child. The court, however, made the transitional arrangements consistent with and subordinate to the award of parental rights and responsibilities to the child's parents, and the court's arrangements automatically expire at such time the mother determines that the transitional arrangements are no longer in the child's best interest. *Cf. 19-A M.R.S. § 1653(2)(B)* (2024) (explaining that in a parental rights and responsibilities order, "[t]he court may award reasonable rights of contact with a minor child to a 3rd person"); *18-C M.R.S. § 5-211(1)* (2024). In these circumstances, we find any error in the court's expression of the award of the parental rights and responsibilities to be harmless. *See M.R. Civ. P. 61* ("The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.").

Finally, the court did not abuse its discretion in denying the father's motion for contempt. *See McMahon v. McMahon*, 2019 ME 11, ¶¶ 8-9, 200 A.3d 789; *MacMahon v. Tinkham*, 2015 ME 9, ¶¶ 10-11, 109 A.3d 1141 ("When, as here, the party with the burden of proof at trial is challenging the denial of the requested relief, to succeed on appeal, [that party] has the very high burden of

demonstrating that a contrary finding is compelled by the evidence.” (quotation marks omitted)).<sup>2</sup>

The entry is:

Judgment affirmed.

---

Neal L. Weinstein, Esq., Old Orchard Beach, for appellant Jeremiah T. Briand

Mary-Ann Letourneau, Esq., Holmes Legal Group, LLC, Wells, for appellee Chelsey Graham

Gregory O. McCullough, Esq., Sanford, for appellee Joseph D. Graham

Springvale District Court docket numbers FM-2020-208 and FM-2022-286  
FOR CLERK REFERENCE ONLY

---

<sup>2</sup> We determine that the parties’ remaining arguments have no merit and do not discuss them further.