

MICHELLE A. GARDNER

v.

LESLIE GREENLAW et al.

Submitted on Briefs June 20, 2024
Decided June 27, 2024

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

MEMORANDUM OF DECISION

Michelle A. Gardner appeals from a judgment of the District Court (Presque Isle, *Langner, J.*) denying her complaints seeking to establish herself as a de facto parent to each of her daughter Leslie Greenlaw's two children. *See* 19-A M.R.S. § 1891 (2024). Contrary to her contentions, the court did not err or abuse its discretion in (1) excluding as hearsay Gardner's proffered testimony about a statement from the oldest child's father because it was offered against the children's guardians, not against the absent father, *see* M.R. Evid. 801(d)(2)(A), 802; Field & Murray, *Maine Evidence* § 801.5 at 438 (6th ed. 2007); *Martin v. MacMahan*, 2021 ME 62, ¶ 29, 264 A.3d 1224; *New Mexico ex rel. Balderas v. Real Est. L. Ctr., P.C.*, 401 F. Supp. 3d 1229, 1292 (D.N.M. 2019); *Guardianship of David P.*, 2018 ME 151, ¶ 6, 196 A.3d 896; (2) considering whether the children's mother used or acquiesced to the use of parental terminology with reference to Gardner, *see Young v. King*, 2019 ME 78, ¶ 12, 208 A.3d 762; *see also Martin*, 2021 ME 62, ¶ 31, 264 A.3d 1224, and whether the mother exercised parental authority to limit Gardner to the role of a grandparent, *see, e.g., Davis v. McGuire*, 2018 ME 72, ¶ 30, 186 A.3d 837; (3) considering the parties' understandings of the nature of their relationships with the children before the entry of a guardianship judgment, *see* 18-C M.R.S.

§ 5-204 (2024), to determine whether the mother understood, acknowledged, or accepted that Gardner was acting as a parent, *see* 19-A M.R.S. § 1891(3)(C); *cf. Gardner v. Greenlaw*, 2022 ME 53, ¶ 17, 284 A.3d 93; and (4) considering the factors set forth in 19-A M.R.S. § 1653(3) (2024) that are also relevant to a determination of whether establishing de facto parentage is in the best interest of a child under 19-A M.R.S. § 1891(3)(E).

The entry is:

Judgment affirmed.

James M. Dunleavy, Esq., Currier, Trask & Dunleavy, Presque Isle, for appellant
Michelle A. Gardner

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