

IN RE ZACHARY G. et al.

Submitted on Briefs September 14, 2006  
Decided September 21, 2006

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,  
LEVY, and Silver, JJ.

MEMORANDUM OF DECISION

The parents appeal from a judgment entered in the District Court (South Paris, *Lawrence, J.*) terminating the father's parental rights to Zachary G., Jacob G. and Joseph G., and the mother's parental rights to the same, as well as Sara C., pursuant to 22 M.R.S. §§ 4050-4058 (2005). Contrary to the father's contentions, the court rationally could have found clear and convincing evidence in the record to support its determination that the father was unable to protect the children from jeopardy and that this was unlikely to change within a time reasonably calculated to meet the children's needs. *See In re Thomas D.*, 2004 ME 104, ¶ 21, 854 A.2d 195, 201. The court did not exceed its discretion by concluding that termination of the father's parental rights was in the best interests of the children. *See In re*

*Thomas H.*, 2005 ME 123, ¶ 16, 889 A.2d 297, 301; *see also In re Michaela C.*, 2002 ME 159, ¶ 27, 809 A.2d 1245, 1253 (“The District Court’s judgment on the issue of best interest [of the children] is entitled to substantial deference . . .”). Contrary to the parents’ contentions, the record indicates that the court did consider all of the evidence, and, therefore, did not err. The mother argues that the court relied upon the Department of Health and Human Services’ (DHHS) proposed findings of fact verbatim; however, there is no evidence that DHHS submitted proposed findings, nor is there evidence that the court adopted those findings verbatim.

The parents argue for the first time on appeal that DHHS failed to comply with the reunification requirements, and that the court failed to consider that noncompliance. Generally, we do not consider an issue raised for the first time on appeal. *Berg v. Bragdon*, 1997 ME 129, ¶ 9, 695 A.2d 1212, 1214. Thus, because the parents failed to raise these arguments in the District Court, they have waived them. However, even if there was no waiver, the court did not err in finding the parents unfit even though DHHS did not update the reunification plan or circulate the plan to the parties ten days before each judicial review.

The entry is:

Judgment affirmed.

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**Attorneys for appellants:**

Donna L. Martin, Esq.  
Oxford Hills Law  
P.O. Box 298  
South Paris, ME 04281-0298

Maurice Porter, Esq.  
P.O. Box 149  
Norway, ME 04268

**Attorneys for appellee:**

G. Steven Rowe, Attorney General  
Matthew Pollack, Asst. Atty. Gen.  
Lou Ann Clifford, Asst. Atty. Gen.  
6 State House Station  
Augusta, ME 04333-0006

***Guardian ad Litem:***

Michael O'Donnell, Esq.  
P.O. Box 511  
Bethel, ME 04217