

IN RE ASPIN B. et al.

Submitted on Briefs February 26, 2009
Decided March 10, 2009

Panel: CLIFFORD, ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

The mother appeals from an order of the District Court (Bangor, *Gunther, J.*) terminating her parental rights to Aspin B. pursuant to 22 M.R.S. § 4055(1)(B)(2)(b)(i) and (ii) (2008), and Jasmine L. pursuant to 22 M.R.S. § 4055(1)(B)(2)(b)(ii).

Contrary to the mother's contention, the court rationally could have found by clear and convincing evidence that she was unwilling or unable to protect Aspin from jeopardy, and unwilling or unable to take responsibility for both children in a time frame reasonably calculated to meet each child's needs. *See In re Thomas D.*, 2004 ME 104, ¶ 21, 854 A.2d 195, 201. In making this determination, it was proper for the court to look at the mother's behavior in regards to the older sibling in determining whether the mother could properly take responsibility for the younger child. *See In re Danielle S.*, 2004 ME 19, ¶ 4, 844 A.2d 1148, 1149-50 (noting also that "a finding of jeopardy as to one child can be based on evidence of a parent's actions toward another child").

In addition, the court rationally could have found that termination was in each child's best interest by clear and convincing evidence in the record, and did not abuse its discretion by so deciding. *See In re Thomas H.*, 2005 ME 123, ¶¶ 16-17, 889 A.2d 297, 301-02. Further, the court did not err in taking into consideration the younger child's attachment to her foster family as part of its inquiry into whether termination would be in her best interests. *See In re Alana S.*, 2002 ME 126, ¶ 14, 802 A.2d 976, 980 (though a young child's bond with a foster family cannot control a determination of parental fitness, "[t]he 'bonding' factor

and the fully predictable emotional disruption that any child is likely to encounter when any long-term parenting arrangement changes are appropriate for consideration in the court's 'best interest' analysis")(emphasis added); *see also In re Michaela C.*, 2002 ME 159, ¶ 27, 809 A.2d 1245, 1253 (the District Court's conclusion as to a child's best interests is accorded substantial deference, as the District Court has the opportunity to directly analyze the testimony of the witnesses).

The entry is:

Judgment affirmed.

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