

IN RE ERWIN E.

Submitted on Briefs April 29, 2010  
Decided May 6, 2010

Panel: SAUFLEY, C.J., and LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

The father of Erwin E. appeals from a judgment of the District Court (Portland, *Goranites, J.*) finding that the child was in circumstances of jeopardy. Contrary to the father's contentions, the admission of a child's out-of-court statements pursuant to 22 M.R.S. § 4007(2) (2009) does not violate the Confrontation, Due Process, or Equal Protection Clauses. First, the Confrontation Clause applies "[i]n all criminal prosecutions," U.S. Const. amend. VI, and therefore is not implicated here. Second, we have previously concluded that section 4007(2) satisfies the requirements of due process. *See In re Robin T.*, 651 A.2d 337, 338 (Me. 1994); *In re Charles Jason R.*, 572 A.2d 1080, 1081-82 (Me. 1990); *see also In re Ryan M.*, 513 A.2d 837, 840 (Me. 1986) (refusing to require threshold findings before admitting a child's out-of-court statement pursuant to section 4007(2)). Third, the father failed to demonstrate an Equal Protection Clause violation because he did not establish that "similarly situated persons are not treated equally under the law." *Town of Frye Island v. State*, 2008 ME 27, ¶ 14, 940 A.2d 1065, 1069.

In addition, the court did not commit obvious error in relying on the guardian ad litem's report to find that the child suffers from post-traumatic stress disorder, *see In re Chelsea C.*, 2005 ME 105, ¶ 10, 884 A.2d 97, 101, and the court's finding of jeopardy was supported by competent evidence in the record, *see In re Adrian D.*, 2004 ME 144, ¶¶ 14-15, 861 A.2d 1286, 1290-91.

The entry is:

Judgment affirmed.

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