MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 10- 75
Docket No. And-09-568

IN RE LOGAN R.

Submitted On Briefs May 27, 2010
Decided June 8, 2010

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

MEMORANDUM OF DECISION

The father appeals from a judgment entered in the District Court (Lewiston, *Beliveau, J.*) terminating his parental rights to Logan R. pursuant to 22 M.R.S. § 4055 (2009) on the Department of Health and Human Services's petition.

Contrary to the father's contentions, competent evidence exists in the record to support, by clear and convincing evidence, the court's findings that the father was unfit to parent and that termination was in the best interest of the child. *See In re Marcus S.*, 2007 ME 24, ¶ 6, 916 A.2d 225, 227 ("We review findings, including best interest findings, under the clearly erroneous standard by determining whether there is any competent evidence in the record to support them."); *see also In re Kaleb C.*, 2002 ME 65, ¶ 7, 795 A.2d 71, 74 ("We affirm an order terminating parental rights when a review of the entire record demonstrates that the trial court rationally could have found clear and convincing evidence in that record to support the necessary factual findings as to the bases for termination." (quotation marks omitted)); *In re Chesley B.*, 499 A.2d 137, 138-39 (Me. 1985) ("As always, we leave to the trial judge questions of credibility and weight to be given testimony; [the judge] alone has had the opportunity to observe the witnesses.").

Moreover, the trial court did not err in taking judicial notice of evidence admitted in prior proceedings. *See In re Scott S.*, 2001 ME 114, ¶ 12, 775 A.2d 1144, 1149 (stating that a trial judge who has heard evidence presented in prior stages of a child protection proceeding "may consider the evidence in the following stages because the process is, in fact, a unified proceeding").

Lastly, we do not consider the father's First Amendment right to free speech claim because the issue was not preserved for appellate review. *See Foster v. Oral Surgery Assocs., P.A.*, 2008 ME 21, ¶ 22, 940 A.2d 1102, 1107 (stating that a constitutional issue is not properly preserved for review if raised for the first time on appeal); *see also Chasse v. Mazerolle*, 580 A.2d 155, 156 (Me. 1990) ("We consider an issue raised and preserved if there was sufficient basis in the record to alert the court and any opposing party to the existence of that issue.").

The entry is:

Judgment affirmed.

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