

GUARDIANSHIP OF AUSTIN R. et al.

Submitted on Briefs July 7, 2010
Decided July 13, 2010

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

MEMORANDUM OF DECISION

The mother of Austin R. and Shelby L. appeals from a judgment entered in the Piscataquis County Probate Court (*Austin, J.*) granting permanent guardianship of the children to the maternal grandparents pursuant to 18-A M.R.S. § 5-204(c) (2009).

Contrary to the mother's contentions, competent evidence exists in the record to support the court's finding by clear and convincing evidence that a temporarily intolerable living situation was created when the children were in the mother's custody. *See Guardianship of Autumn S.*, 2007 ME 8, ¶ 5, 913 A.2d 614, 616 (stating that we review the Probate Court's factual findings for clear error); *see also Guardianship of Jewel M.*, 2010 ME 17, ¶ 12, 989 A.2d 726, 729 (concluding that a temporarily intolerable living situation exists when a court finds "that the parent's inability to meet the child's needs constitutes an urgent reason that may have a dramatic, and even traumatic, effect upon the child's well-being . . . if the child lives with the parent" (quotation marks omitted)); *Guardianship of Emma M.*, 2003 ME 89, ¶ 3, 828 A.2d 776, 777 ("[T]he Probate Court is not limited to an examination of a child's living situation on the date of the petition or to the child's living situation at the date of the hearing when it considers section 5-204(c)'s intolerable living situation." (quotation marks omitted)). Moreover, the court did not err in weighing conflicting evidence and assessing the credibility of each witness's testimony. *See In re Amberley D.*, 2001 ME 87, ¶ 21, 775 A.2d 1158, 1165 ("[I]t is the factfinder's responsibility to assess the credibility of witnesses and the weight and significance of the evidence.").

The entry is:

Judgment affirmed.

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