

Decision: 2020 ME 121

Docket: Wal-20-36

Submitted

On Briefs: September 29, 2020

Decided: October 15, 2020

Panel: MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

IN RE CHILDREN OF LORETTA M.

PER CURIAM

[¶1] Loretta M. appeals from a judgment entered by the District Court (Belfast, *Davis, J.*) terminating her parental rights to three of her children pursuant to 22 M.R.S. § 4055(1)(A)(1)(a), (B)(2)(a), (b)(i)-(iv) (2020).<sup>1</sup> Contrary to the mother's contention, on this record the court did not clearly err in finding at least one ground of parental unfitness by clear and convincing evidence, nor did the court abuse its discretion in concluding that termination was in the children's best interests. *See In re Children of Jason C.*, 2020 ME 86, ¶¶ 7, 10, --- A.3d ---.

[¶2] Although we affirm the judgment, we note that in its termination order the court, in addition to making express factual findings pursuant to M.R. Civ. P. 52(a), discussed the evidence at length rather than making actual

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<sup>1</sup> The judgment also terminated the father's parental rights; he has not appealed.

findings regarding other facts. The court prefaced many parts of that discussion with the phrases “[a]ccording to [the witness] . . .”; “[t]he court heard testimony from [the witness concerning] . . .”; “[the witness] testified that . . .”; “[the witness] reported . . .”; and the like. We recently held, and we now reemphasize, that such references to the evidence are not “express factual findings” that may support a trial court’s judgment because “[a]lthough the court described the testimony of the . . . witnesses at length, it did not state what testimony it believed or what findings it made on the basis of that testimony.” *Klein v. Klein*, 2019 ME 85, ¶ 7, 208 A.3d 802.

[¶3] That said, in this case the express findings that the court did make were sufficient to support its determination to terminate the mother’s parental rights.

The entry is:

Judgment affirmed.

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Sean Ociepka, Esq., Ociepka & Burnett, P.A., Belfast, for appellant mother

Aaron M. Frey, Attorney General, and Meghan Szylvian, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee Department of Health and Human Services