

JEAN-PAUL RUHOSHA

v.

BENEFIQUE MUTEZINKA

Submitted on Briefs December 30, 2024

Decided January 14, 2025

Panel: STANFILL, C.J., and MEAD, HORTON, CONNORS, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Jean-Paul Ruhosha, through guardian ad litem (GAL) Matthew F. Govan, Esq., appeals from a judgment entered by the District Court (Portland, *J. French, J.*) awarding sole parental rights and responsibilities to Benefique Mutezinka and allocating to Ruhosha visitation twice per month for a minimum of two hours per visit to be held at a Maine supervised visitation center unless otherwise agreed to by the parties.

Govan was appointed as Ruhosha's GAL pursuant to M.R. Civ. P. 17(b) based on concerns regarding Ruhosha's competency. On July 17, 2024, we issued an order allowing the GAL to file a memorandum arguing that Ruhosha was entitled to court-appointed counsel in a parental rights and responsibilities dispute with the other parent of his children. The GAL filed a motion to enlarge the time to file a memorandum or brief on July 25, 2024. In that motion, the GAL indicated that he was considering briefing other issues. We issued an order granting the GAL's motion in part by extending his deadline to file a memorandum regarding the appointment of counsel to August 28, 2024, and in the alternative, if GAL Govan, Ruhosha, or retained counsel wished to brief other issues they were to submit their brief on or before September 9, 2024.

The GAL filed a memorandum on August 28, 2024, arguing that Ruhosha was entitled to appointed counsel. No brief on the merits was filed on or before the September 9 deadline.

With respect to the argument that Ruhosha is entitled to appointed counsel, regardless whether there are circumstances in which it would be appropriate to appoint counsel in a parental rights and responsibilities proceeding not instigated by the state—see 19-A M.R.S. § 1658(2-A)(A) (2024); 22 M.R.S. § 4005(2) (2024); *In re T.B.*, 2013 ME 49, ¶ 14, 65 A.3d 1282 (“A parent determined to be indigent has a due process right to appointed counsel at State expense *in a child protection proceeding initiated by the State*, unless the right is knowingly waived.” (emphasis added))—neither in the proceedings below nor in the memorandum before us has Ruhosha claimed that he is indigent and unable to retain counsel; to the contrary, Ruhosha indicated that he was working on retaining an attorney during the pendency of the proceeding.¹

Because no brief was filed on or before the September deadline, the appeal is dismissed for want of prosecution. See M.R. App. P. 4(c); *In re Estate of MacComb*, 2015 ME 126, ¶ 10, 124 A.3d 1119.

The entry is:

Appeal dismissed.

¹ Even states that provide a statutory right to counsel for indigent parents in custody proceedings against the other parent of their children still require the parent to claim indigency and provide proof supporting the claim. See, e.g., *Alphonse v. Alphonse*, 189 A.D.3d 1028, 1030 (N.Y. App. Div. 2020) (“As a result, the father failed to fully and timely make the disclosure necessary to support his claim of indigency. Contrary to the father’s contention, the court was therefore not required to inquire any further into his expenses, and we agree with its determination that he was not financially eligible for court-appointed counsel.”).

Matthew Govan, Esq., Govan Law Office, P.A., Portland, guardian ad litem pro se

Portland District Court docket number FM-2022-504

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