

GUARDIANSHIP BY MELISSA L.

Submitted on Briefs December 30, 2024

Decided February 18, 2025

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

MEMORANDUM OF DECISION

The paternal grandparents appeal from a judgment of the Kennebec County Probate Court (*E. Mitchell, J.*) appointing the maternal grandmother as guardian of the minor child and denying the paternal grandparents' petition for guardianship. *See* 18-C M.R.S. § 1-308 (2024); M.R. App. P 2B(c)(1). We affirm the judgment because the court did not clearly err or abuse its discretion in finding that the mother consented to the maternal grandmother's guardianship of the child and determining that guardianship with the maternal grandmother is suitable and in the child's best interest.¹ *See* 18-C M.R.S. § 5-204(2) (2024); *In re Guardianship of Hailey M.*, 2016 ME 80, ¶¶ 15, 21, 140 A.3d 478. Because the evidence does not compel a finding of parental unfitness, the court did not abuse its discretion in denying the paternal grandparents' motion to reconsider. *See, e.g., Stevenson v. Stevenson*, 612 A.2d 852, 854-55 (Me. 1992); *Ten Voters of City of Biddeford v. City of Biddeford*, 2003 ME 59, ¶ 11, 822 A.2d 1196.

The paternal grandparents also argue that the court made inappropriate comments on the issues which misled them in presenting evidence of parental unfitness. The court made several statements to the effect that the

¹ One of the court's findings—that the maternal grandmother tried to get a different job to accommodate visitation with the child—lacks evidentiary support. However, this finding is not material to the court's ultimate determination of guardianship. *See Adoption of Isabelle T.*, 2017 ME 220, ¶ 30, 175 A.3d 639.

appropriateness of a guardianship was not contested and the focus of the hearing was where the child would live. The court erred in making these statements suggesting that evidence of parental unfitness was unnecessary, contrary to its ultimate findings. The paternal grandparents, however, have not identified how they were prejudiced beyond a generalized statement that they would have proceeded differently if they had understood the issue of parental fitness had not yet been decided. The court did not exclude any evidence proffered by the paternal grandparents or otherwise interfere with their ability to put forward evidence. *See State v. Kelley*, 2025 ME 1, ¶ 23, 327 A.3d 1168. Absent an articulated identifiable prejudice, they cannot succeed on appeal. *See, e.g., In re Child of Kenneth S.*, 2022 ME 14, ¶ 22, 269 A.3d 242.

The entry is:

Judgment affirmed

Ashley T. Perry, Esq., Sanders, Hanstein, Carey & Perry, P.A., Farmington, for appellants paternal grandparents

Brad C. Grant, Esq., Ferris, Gurney, Grant & Crook PA, Waterville, for appellee maternal grandmother

Cody B. Mason, Esq., Ranger Copeland French, PA, Brunswick, for appellee biological mother