

IN RE MICHELLE C. et al.

Submitted on Briefs June 12, 2001
Decided June 19, 2001

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, SAUFLEY,
ALEXANDER, and CALKINS, JJ.

MEMORANDUM OF DECISION

Patricia C., the mother of Michelle and Michael, appeals from the judgment of the District Court (South Paris, *Lawrence J.*) terminating her parental rights. She contends that 22 M.R.S.A. § 4055(1-A)(E) (Supp. 2000), the rebuttable presumption provision, is unconstitutional on its face for vagueness and for the reason that it does not expressly require proof by clear and convincing evidence. We do not reach these constitutional arguments because we determine that the court did not rely on section 4055(1-A)(E). Although the trial court stated that the presumption had been triggered, it is apparent from an examination of the court's thorough and lengthy findings, as a whole, that the court found, without relying on the presumption, that the mother was unwilling or unable to protect the children from jeopardy and the circumstances were unlikely to change within a time reasonably calculated to meet the children's needs. 22 M.R.S.A. § 4055(1)(B)(2)(b)(i) (1992).

The entry is:

Judgment affirmed.

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