



JANET T. MILLS
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TTY USERS CALL MAINE RELAY 711

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CARIBOU, MAINE 04736
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FAX: (207) 496-3291

September 10, 2014

Matthew E. Pollack, Clerk
Maine Supreme Judicial Court
205 Newbury St., Rm 139
Portland, ME 04101-4125

Re: Law Court Docket No. KEN-14-192, *In re: A.P.*

Dear Mr. Pollack:

In the transmittal letter and certificate of service dated today for the Department's Motion to Dismiss Appeal and Remand to District Court, I omitted Attorney David P. Crocker for the amici. I certify that on this date I have caused a copy of the motion and supporting affidavit to be mailed to him.

Thank you kindly for your attention to this matter.

Very truly yours,

Nora Sosnoff
Assistant Attorney General
Maine Bar No. 6872
Augusta Office

NS/tlh

cc: David P. Crocker, Esq.
Martha Hallisey-Swift, Assistant Attorney General
Kevin Wells, Esq., General Counsel, DHHS
Scott Hess, Esq., Counsel for Appellant
Melissa Norton, Esq., Guardian ad litem
Newell A. Augur, Esq., Counsel for father

RECEIVED
SEP 11 2014
BY:

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Matthew E. Pollack, Clerk
Maine Supreme Judicial Court
205 Newbury St., Rm 139
Portland, ME 04101-4125

Re: Law Court Docket No. KEN-14-192, *In re: A.P.*

Dear Mr. Pollack:

Please find enclosed for filing with the Law Court a Motion to Dismiss Appeal and Remand to District Court, with supporting Affidavit and a copy pursuant to M. R. App. 10(d). I certify that on this date I have caused copies of same to be mailed to each of the counsel listed below.

Thank you kindly for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'N S'.

Nora Sosnoff
Assistant Attorney General
Maine Bar No. 6872
Augusta Office

NS/tlh

Enclosures

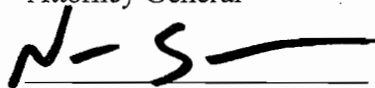
cc: Martha Hallisey-Swift, Assistant Attorney General
Kevin Wells, Esq., General Counsel, DHHS
Scott Hess, Esq., Counsel for Appellant
Melissa Norton, Esq., Guardian ad litem
Newell A. Augur, Esq., Counsel for father

4. As long as the mother's parental rights have not been terminated, the Department consents to an ongoing stay of the provision in the April 24, 2014 order that would otherwise permit the Department to authorize a medical directive of 'Do Not Resuscitate' for the child without the consent of the child's mother.
5. There is no longer a justiciable controversy in this appeal because "[j]usticiability requires that there be a real and substantial controversy, admitting of specific relief through a judgment of conclusive character as distinguished from a judgment merely advising what the law would be if...". *Dalton v. Dalton*, 2014 ME 108, ¶10, ___ A. 3d. ___ (quoting *Connors v. Int'l Harvester Credit Corp.*, 447 A.2d 822, 824 (Me.1982)).
6. The mother opposes the relief sought in this motion. The guardian *ad litem* could not be reached prior to mailing.

WHEREFORE, the Maine Department of Health and Human Services respectfully requests that the Law Court dismiss the mother's appeal and remand the case to the District Court for further proceedings in accordance with 22 M.R.S. §§4001, et seq., together with such other relief as the Court deems just and proper.

Respectfully submitted,

Janet T. Mills
Attorney General



Nora Sosnoff
Assistant Attorney General
Maine Bar No. 6872
State House Station 6
Augusta ME 04333-0006
(207) 626-8800

Dated: September 10, 2014

Certificate Of Service

I, Nora Sosnoff, Assistant Attorney General, hereby certify that I have caused one copy of the foregoing Motion to Dismiss Appeal and Remand to be served upon each of the attorneys listed below, by depositing same in the United States Mail, first-class postage prepaid, addressed as follows:

Martha Hallisey-Swift, Assistant Attorney General, 6 State House Station, Augusta, Maine 04333

Kevin Wells, Esq., General Counsel, DHHS, 221 State Street, Augusta, Maine 04333

Scott Hess, Esquire, 72 Winthrop Street, Augusta, Maine 04330

Melissa Norton, Esquire, 28 Ithiel Gordon Road, Mt. Vernon, ME 04352

Newell A. Augur, Esquire, Augur and Associates, 5 Wade Street, Augusta, ME 04330

Dated: September 10, 2014



Nora Sosnoff
Assistant Attorney General

STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court

Docket No. Ken-14-192

In Re A.P.

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AFFIDAVIT OF
MARY MAYHEW

**AFFIDAVIT OF MARY MAYHEW, COMMISSIONER,
MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

I, Mary Mayhew, being duly sworn, state the following:

1. I am the Commissioner of the Maine Department of Health and Human Services.
2. I will not at any time in the future exercise any authority granted to the Department of Health and Human Service that would result in a medical directive of "Do Not Resuscitate" for the child "A.P." without the consent of the child's mother, so long as the mother's parental rights have not been terminated.
3. I will maintain this position, regardless of the outcome of above-captioned appeal.

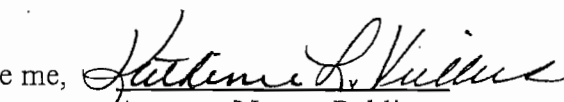
Dated: September 9, 2014


 Mary Mayhew, Commissioner
 Department of Health and Human Services

State Of Maine
Kennebec, SS

Personally appeared before me the above-named Mary Mayhew and swore to the truth of the foregoing this 9th day of September, 2014.

Before me,


 Attorney/Notary Public

KATHERINE LEE VEILLEUX
 Notary Public, Maine
 My Commission Expires
 April 1, 2021