

JOAN E. CASTELLANO

v.

STEPHEN C. CASTELLANO

Submitted on Briefs February 24, 2011
Decided March 17, 2011

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Stephen C. Castellano appeals from a judgment entered in the District Court (York, *Foster, J.*) adopting the order of a Family Law Magistrate (*Cadwallader, M.*) denying his motion to modify child support. “When an appeal is taken from a judgment adopting the magistrate’s order, we will review the magistrate’s order directly.” *Lawrence v. Webber*, 2006 ME 36, ¶ 6, 894 A.2d 480, 482-83.

Contrary to Stephen’s contentions, the magistrate did not commit clear error in finding that Stephen was voluntarily unemployed. *See Carolan v. Bell*, 2007 ME 39, ¶ 19, 916 A.2d 945, 950. Nor does the record disclose any error or abuse of discretion in the magistrate’s decision to assign Stephen an imputed income of \$96,000. *See* 19-A M.R.S. § 2001(5)(D) (2010); *Brown v. Brown*, 2007 ME 89, ¶ 11, 929 A.2d 476, 480 (“We review factual findings regarding a party’s income for clear error.”); *Carolan*, 2007 ME 39, ¶ 19, 916 A.2d at 950 (“If a parent is voluntarily underemployed, the court’s decision to impute income or apply the parent’s earning capacity, rather than his or her current income, is discretionary.”). Given these determinations, the magistrate did not clearly err in finding that Stephen had not shown a substantial change in circumstances and did

not abuse its discretion in denying his motion to modify. *See* 19-A M.R.S. § 2009 (2009);¹ *Levasseur v. Levasseur*, 2010 ME 5, ¶ 6, 987 A.2d 528, 530; *Ellis v. Ellis*, 2008 ME 191, ¶ 15, 962 A.2d 328, 333.

The entry is:

Judgment affirmed.

Attorney for Stephen C. Castellano:

Bryan M. Chabot, Esq.
Scaccia, Lenkowski, Aranson & Bartlett
1038 Main Street
PO Box 929
Sanford, Maine 04073

Attorney for Joan E. Castellano:

Dana E. Prescott, Esq.
Prescott, Jamieson, Nelson & Murphy, LLC
PO Box 1190
Saco, Maine 04072

York District Court docket number FM-2007-32
FOR CLERK REFERENCE ONLY

¹ Title 19-A M.R.S. § 2009 has since been amended, but not in any way that affects this appeal. *See* P.L. 2009, ch. 290, §§ 17-19 (effective Sept. 12, 2009) (codified at 19-A M.R.S. § 2009 (2010)).