

DENNY M. COLLYER

v.

SEAN FARRIS et al.

Submitted on Briefs April 26, 2012
Decided May 31, 2012

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

MEMORANDUM OF DECISION

Denny M. Collyer appeals from a summary judgment entered in the Superior Court (Kennebec County, *R. Murray, J.*) in favor of Sean Farris, Tammy Ham-Thompson, and Farris Law, P.A. (collectively, Farris). Collyer asserts a number of issues on appeal, but focuses primarily on three points of error: (1) denying his motion to enlarge time to designate an expert witness for his legal malpractice claim, (2) concluding that Collyer's need for an expert witness was not obviated by a post-conviction review order, and (3) granting summary judgment in favor of Farris on Collyer's legal malpractice and other tort claims.

First, the court did not err in denying the extension of time to designate an expert witness because Collyer requested the extension over three months after the deadline had passed and he provided no evidence of extraordinary circumstances. *See Dyer Goodall & Federle, LLC v. Proctor*, 2007 ME 145, ¶¶ 18-21, 935 A.2d 1123. Second, the post-conviction review order did not remove the need for an expert witness because Farris was not a party to the post-conviction review proceeding, and therefore Farris did not have a fair opportunity to advocate on his behalf in that prior proceeding. *See State Mut. Ins. Co. v. Bragg*, 589 A.2d 35, 37 (Me. 1991); *Hossler v. Barry*, 403 A.2d 762, 769 (Me. 1979). Finally, the court's decision to enter summary judgment in favor of Farris was not in error. Under the circumstances presented, an expert witness was required to establish proximate

cause because causation was not within the knowledge of laypersons. *See Corey v. Norman, Hanson & DeTroy*, 1999 ME 196, ¶¶ 10, 13, 742 A.2d 933.

The additional arguments raised by Collyer in this appeal are without merit and require no further discussion.

The entry is:

Judgment affirmed.

On the briefs:

Daniel S. Skolnik, Esq., Law Office of Daniel Skolnik, Portland, for appellant Denny M. Collyer

Wendell G. Large, Esq., and Carol I. Eisenberg, Esq., Richardson, Whitman, Large & Badger, Portland, for appellees Sean Farris, Tammy Ham-Thompson, and Farris Law, P.A.