

DENISE D. WENTWORTH

v.

EDWARD J. O'CONNELL

Submitted on Briefs February 26, 2013  
Decided May 7, 2013

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

#### MEMORANDUM OF DECISION

Denise Wentworth appeals from a judgment entered in the District Court (Biddeford, *Cantara, J.*) granting Edward O'Connell's motion to correct a clerical error in a child support order issued by the Case Management Officer (*Stavros, M.*) at the time of her divorce from O'Connell in 2004. Contrary to Wentworth's contentions, the court did not err in concluding that O'Connell was not in arrears with respect to the years in which he paid \$125 per week in child support. *See Weiss v. Brown*, 1997 ME 57, ¶ 6, 691 A.2d 1208 (stating that in interpreting an ambiguous divorce judgment that incorporates an agreement of the parties, we must construe the intent of the trial court that issued the divorce judgment); *Blanchard v. Sawyer*, 2001 ME 18, ¶¶ 4-5, 769 A.2d 841 ("When the meaning [of an ambiguous judgment] may only be gleaned by examining extrinsic evidence, however, the finder of fact determines the meaning based on the evidence presented.").

Additionally, the court did not abuse its discretion in denying Wentworth's motion to continue the hearing on the motion to correct a clerical error because she has not shown that the denial "had any adverse prejudicial effect on [her] substantial rights." *See Wright & Mills v. Bispham*, 2002 ME 123, ¶ 13, 802 A.2d 430 (quotation marks omitted). Because the court only addressed

whether there was a clerical error in the child support order, we do not reach Wentworth's due process or waiver arguments.

Finally, O'Connell filed a motion for sanctions requesting reasonable costs and attorney fees, alleging that Wentworth's appeal was frivolous and contumacious. *See* M.R. App. P. 13(f). Concluding that Wentworth's appeal is neither frivolous nor contumacious, we decline O'Connell's request to impose sanctions. *Cf. Finch v. Higgins*, 2008 ME 13, ¶¶ 10-11, 14, 953 A.2d 1142 (awarding sanctions for a frivolous appeal where defendant refused to comply with discovery requests and put forth "a number of arguments that [we]re totally without merit").

The entry is:

Judgment affirmed.

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**On the briefs:**

Pamela S. Holmes, Esq., and Amy McNally, Esq., Holmes  
Legal Group, LLC, Wells, for appellant Denise Wentworth

Judy Potter, Esq., Cape Elizabeth, for appellee Edward  
O'Connell