

PATRICK TULLY et al.

v.

RICHARD P. FRAUTTEN et al.

Submitted on Briefs February 27, 2014
Decided March 6, 2014

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

MEMORANDUM OF DECISION

Richard and Sara Frautten appeal from the entry of a declaratory judgment against them by the Superior Court (Kennebec County, *Nivison, J.*) following a bench trial. Contrary to the Frauttens' contentions, the court's order did not exceed the scope of the issues before the court, because the language in the order complained of on appeal, while not addressed by the court in its oral ruling, was added by the parties drafting the order, with agreement by the Frauttens.

Furthermore, the court did not commit obvious error in including the now challenged language in its judgment. See *Tibbetts v. Dairyland Ins. Co.*, 2010 ME 61, ¶ 10, 999 A.2d 930 (stating that under obvious error review, the appellant "must prove a seriously prejudicial error tending to produce a manifest injustice") (quotation marks omitted); *Morey v. Stratton*, 2000 ME 147, ¶ 10 & n.3, 756 A.2d 496 (stating that this Court will review an unpreserved error only if it is "of the exceptional kind that seriously affected the fairness or integrity of the proceeding") (alteration and quotation marks omitted); see also *State v. Haskell*, 2008 ME 82, ¶ 8, 955 A.2d 737 (stating that the use of a "great pond" is not a fundamental right).

The entry is:

Judgment affirmed.

On the briefs:

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