

JEREMY GAGNON

v.

CHRISTINA M. SHAW

Submitted on Briefs September 28, 2015
Decided October 15, 2015

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

MEMORANDUM OF DECISION

Jeremy Gagnon appeals from a judgment of the District Court (Waterville, *E. Walker, J.*) granting Christina M. Shaw's motion to modify their parental rights and responsibilities order as to their two children. *See* 19-A M.R.S. § 1657 (2014). While Gagnon contests the court's ultimate determination regarding the best interests of the children rendered after a hearing in what was a close and difficult case, our deferential standard of review requires that, if the facts found by the trial court are supported by the record, as they are here, we must affirm the court's ultimate determination regarding a substantial change of circumstances and the best interests of the children. *See Akers v. Akers*, 2012 ME 75, ¶¶ 2-3, 44 A.3d 311. Gagnon has demonstrated no clear error in the underlying factual findings supporting the court's decision. *See id.*

We are also not persuaded by Gagnon's contention that the court made an error of constitutional magnitude simply because a portion of its order engaged in a nondispositive discussion of de facto parenthood regarding a couple, not parties to the proceeding, to whom Gagnon had transferred the care of the children. The record reflects that Gagnon's transfer of the children to the nonparents' household

was more than a temporary situation, as the children had lived with the nonparents for four years previously and again from September 2014 to the time of the hearing in March 2015. Further, as Gagnon voluntarily left his job, failed to secure new employment, and continued to collect Shaw's child support payments for his own benefit while the children were being cared for by others, the court could have found that Gagnon chose to render himself unable to care for the children.¹

The entry is:

Judgment affirmed.

On the briefs:

Aaron B. Rowden, Esq., Schneider & Brewer, Waterville, for
appellant Jeremy Gagnon

Christina M. Gagnon did not file a brief

Waterville District Court docket number FM-2005-210
FOR CLERK REFERENCE ONLY

¹ We also note that the record indicates that, shortly before Gagnon transferred the children to the nonparents' household, he asked Shaw to take the children, but the parties could not afford to send the children to Shaw's home in California at that time.