

JASON J. LEE

v.

PEPPER M. SMITH

Submitted on Briefs June 29, 2017  
Decided July 6, 2017

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

#### MEMORANDUM OF DECISION

Jason J. Lee appeals from a judgment of the District Court (Lewiston, *Lawrence, J.*) denying his motions to reconsider and to modify or amend the parental rights and responsibilities judgment that awarded primary residence of the parties' two minor children to Pepper M. Smith. On appeal, Lee argues that the court abused its discretion in denying his motions.

"A motion for reconsideration of a judgment is treated as a motion to alter or amend a judgment under M.R. Civ. P. 59(e)." *Arsenault v. Arsenault*, 2008 ME 75, ¶ 5, 946 A.2d 412. We review the denial of a motion to alter or amend the judgment for an abuse of discretion. *Ten Voters of Biddeford v. City of Biddeford*, 2003 ME 59, ¶ 11, 822 A.2d 1196. We review the trial court's factual findings in a parental rights and responsibilities judgment for clear error and its ultimate conclusion for an abuse of discretion. *See Grant v. Hamm*, 2012 ME 79, ¶ 6, 48 A.3d 789.

Although Lee contends that the children would be better off with him, the court's findings to the contrary are supported by competent evidence in

the record. *See State v. McBreaity*, 2016 ME 61, ¶ 14, 137 A.3d 1012 (“[T]he fact-finder is permitted to . . . decide the weight to be given to the evidence and the credibility to be afforded to the witnesses.”); *Gordon v. Cheskin*, 2013 ME 113, ¶ 12, 82 A.3d 1221 (“Factual findings should not be overturned in an appellate proceeding simply because an alternative finding also finds support in the evidence.”). Further, given the court’s findings and careful consideration of the best interests of the children, the award of primary residence to Smith and the resulting contact schedule do not amount to an abuse of discretion. *Cf. Grant*, 2012 ME 79, ¶ 6, 48 A.3d 789 (“The judgment of the trial court is entitled to very substantial deference because the court is able to appraise all the testimony of the parties and their [witnesses].”). Therefore, the trial court did not abuse its discretion in denying the motions to reconsider or to amend the judgment.

The entry is:

Judgment affirmed.

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Jason J. Lee, appellant pro se

Pepper M. Smith, appellee pro se