

NICHOLAS M. CROCKER

v.

CASEY L. CROCKER

Submitted on Briefs July 19, 2017
Decided July 27, 2017

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

MEMORANDUM OF DECISION

Nicholas Crocker appeals from a judgment of the District Court (Dover-Foxcroft, *Stitham, J.*) granting a motion filed by his ex-wife, Casey Crocker, to modify a divorce judgment by awarding primary residence of their child to Casey. Contrary to Nicholas's contention, the court's determination that the child's enrollment in pre-kindergarten constitutes a substantial change in circumstances is supported by competent evidence in the record.¹ *See* 19-A M.R.S. § 1657(2) (2016); *Pearson v. Ellis-Gross*, 2015 ME 118, ¶ 5, 123 A.3d 223 ("A parent who moves for a modification of parental rights 'must demonstrate that a substantial change in circumstances has occurred since the previous decree and that the modification is in the best interests of the child[]").

¹ Additionally, we note that Nicholas admitted at the hearing on Casey's motion that the child's attendance of pre-kindergarten constitutes a substantial change in circumstances. *See Cyr v. Cyr*, 432 A.2d 793, 797 (Me. 1981) (stating that "a party who raises an issue for the first time on appeal will be deemed to have waived the issue").

Also contrary to Nicholas's contention, the court did not abuse its discretion in determining that, pursuant to the statutory best interest factors contained in 19-A M.R.S. § 1653(3) (2016), it is in the child's best interest to reside primarily with Casey. *See Jackson v. MacLeod*, 2014 ME 110, ¶ 23, 100 A.3d 484 ("A trial court is afforded broad discretion to determine the custodial arrangements for a minor child, and the determination of the weight to be given to each factor . . . is left to the sound discretion of the trial court after careful consideration." (quotation marks omitted)); *see also Akers v. Akers*, 2012 ME 75, ¶ 5, 44 A.3d 311 ("When a child has two available and appropriate parents, but the parents live in different towns, the court must often award primary physical residence to one parent in order to avoid disrupting the child's education.").

The entry is:

Judgment affirmed.

Kimberly C. Cavanagh, Esq., Law Office of Kimberly C. Cavanagh, Dover-Foxcroft, for appellant Nicholas M. Crocker

Caitlyn S. Smith, Esq., and Kristy M. Hapworth, Esq., Rudman Winchell, Bangor, for appellee Casey L. Crocker