MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 18-79
Docket No. Oxf-18-183

JANE DOE[1]

v.

SETH T. CAREY

Submitted on Briefs October 10, 2018
Decided October 18, 2018

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

MEMORANDUM OF DECISION

Seth T. Carey appeals from a judgment of the District Court (Rumford, *Mulhern, J.*) finding that the plaintiff, Jane Doe, "was abused by [Carey]" and granting her a two-year protection from abuse order. *See* 19-A M.R.S. § 4007(2) (2017). Carey contends that the trial court erred or abused its discretion by (1) finding that there was sufficient evidence to support issuance of the protection from abuse order; (2) excluding some evidence of interactions between the plaintiff and third parties offered by Carey to challenge her motive for filing the complaint and attack her reputation for truthfulness; and (3) denying Carey's motion for relief from judgment, M.R. Civ. P. 60(b)(2), based on his assertion that certain text messages demonstrated that the plaintiff "fabricated her claims" of abuse.

[1] Pursuant to federal law, we do not identify the plaintiff in this protection from abuse action and limit our description of events and locations to avoid revealing "the identity or location of the party protected under [a protection] order" as required by 18 U.S.C. § 2265(d)(3) (LEXIS through Pub. L. No. 115-253). *See Doe v. Tierney*, 2018 ME 101 n.1, 189 A.3d 756.

Contrary to Carey's contentions on appeal, the record contains sufficient evidence to support the finding that Carey committed two separate abusive acts, *see* 19-A M.R.S. § 4002(1)(A)-(F) (2017), one involving unlawful sexual touching, 17-A M.R.S. § 260(1)(A) (2017), and one involving offensive physical contact, 19-A M.R.S. § 4002(1)(A), justifying issuance of the two-year protection from abuse order, *see Boulette v. Boulette*, 2016 ME 177, ¶ 10, 152 A.3d 156.

Further, the trial court did not err or abuse its discretion in (i) limiting cross-examination of the plaintiff once it recognized that the cross-examination was getting into purely collateral issues, *see* M.R. Evid. 403; (ii) excluding a former boyfriend's testimony as more prejudicial than probative, *see* M.R. Evid. 403, and unrelated to the plaintiff's actions at issue in the hearing, *see State v. Maderios*, 2016 ME 155, ¶¶ 10-12, 149 A.3d 1145; M.R. Evid. 404(b); and (iii) applying M.R. Evid. 608(b) to bar the use of extrinsic evidence of specific instances of the plaintiff's conduct to attack her character for truthfulness, *see State v. Coleman*, 2018 ME 41, ¶ 14, 181 A.3d 689.

Finally, Carey's motion for relief from judgment was properly denied, as the record indicates that Carey was aware of the existence of the text messages at issue prior to the final hearing, and thus they could not have been newly discovered evidence, M.R. Civ. P. 60(b)(2); *Boynton v. Adams*, 331 A.2d 370, 373 (Me. 1975). Even if the evidence was not in Carey's possession at the time of the final hearing, the record supports the trial court's finding that the new evidence would not change the result upon a new trial. *Boynton*, 331 A.2d at 373.

The entry is:

Judgment affirmed.

Seth T. Carey, appellant pro se

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