MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 18-8
Docket No. Yor-17-332

MIRANDA E.H. ROSA

v.

DANIEL T. ROSA

Submitted on Briefs January 11, 2018
Decided January 23, 2018

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

MEMORANDUM OF DECISION

Miranda E.H. Rosa appeals from a judgment of the District Court (Springvale, *Moskowitz, J.*) granting Daniel T. Rosa's motion to modify his child support obligation. We affirm the judgment.

Although Miranda contends that the court abused its discretion by not enforcing her subpoena to compel a third party to produce Daniel's credit card application, she ultimately chose not to press this issue at the hearing and therefore has not preserved it for appellate review. *See In re Christopher H.*, 2011 ME 13, ¶ 15, 12 A.3d 64 ("As a general rule, we will not engage in appellate review of alleged error that is unpreserved."). Nonetheless, on the merits of this contention and to the extent that the court may be seen as having acted on it, the court did not abuse its discretion. *See Berntsen v. Berntsen*, 2017 ME 111, ¶ 10, 163 A.3d 820.

Additionally, because Miranda presented no evidence on which the court could make any finding regarding the value of Daniel's rent-free housing in a residential building he helped to renovate, *see* 19-A M.R.S. § 2001(5)(B) (2017), the court did not err in not considering that benefit as income for

purposes of calculating child support. *See Akers v. Akers*, 2012 ME 75, ¶ 2, 44 A.3d 311; *see also Dickens v. Boddy*, 2015 ME 81, ¶ 12, 119 A.3d 722 ("A party having the burden of proof on an issue can prevail on a sufficiency of the evidence challenge to a finding that his or her burden has not been met only by demonstrating that a contrary finding is compelled by the evidence in the record.").

Further, the court did not abuse its discretion by imposing and enforcing time limitations—of which the parties had clear notice—for the parties' presentations at the hearing. *See Dolliver v. Dolliver*, 2001 ME 144, ¶ 10, 782 A.2d 316 ("A trial court has broad discretion to control the order and timing of presentation of evidence and to set and enforce reasonable time limits on testimonial hearings."); M.R. Evid. 611(a) (providing that a "court must exercise reasonable control over the mode and order of examining witnesses and presenting evidence"). The court was diligent in apprising the parties of the remaining amount of their allocated time as the hearing progressed, and the court committed no error by foreclosing Miranda from presenting evidence that she could have presented earlier had she not exhausted her allotted time.

Finally, we are unpersuaded by Miranda's remaining contentions. *See Efstathiou v. Aspinquid, Inc.*, 2008 ME 145, ¶ 48, 956 A.2d 110 (stating that a court's factual findings as to a party's income are reviewed for clear error); *Morey v. Stratton*, 2000 ME 147, ¶ 10, 756 A.2d 496 (stating that unpreserved issues are reviewed for obvious error, which is defined as an error that "'seriously affect[s] the fairness or integrity of the proceeding'") (quoting *Harris v. PT Petro Corp.*, 650 A.2d 1346, 1349 (Me. 1994)).

The entry is:

Judgment affirmed.

Gregory O. McCullough, Esq., Sanford Law Offices, Sanford, for appellant Miranda Rosa

Donna A. Bailey, Esq., Saco, for appellee Daniel Rosa

Springvale District Court docket number FM-2010-59
FOR CLERK REFERENCE ONLY