

BANGOR SAVINGS BANK

v.

COLT KWIATKOWSKY et al.

Submitted on Briefs November 28, 2018
Decided December 6, 2018

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

MEMORANDUM OF DECISION

Colt and Carol Kwiatkowski appeal from disclosure orders entered by the District Court (Bangor, *Larson, J.*) requiring them to each pay \$100 per week towards an outstanding judgment against them. The Kwiatkowskys argue that the district court erred by failing to subtract their monthly household expenses when determining their “disposable earnings” subject to disclosure. *See* 14 M.R.S. §§ 3121(2), 3126-A(3)(A) (2018). The Kwiatkowskys also argue that the district court erred in determining that they were able to pay \$100 per week, per person, based on the evidence of income presented.¹

Based on the evidence presented at the disclosure hearing, the court’s order was well within the range permitted by statute. *See* 14 M.R.S.

¹ The Kwiatkowskys’ due process argument presented in their brief is both unpreserved and without merit, as the Kwiatkowskys made no effort at the disclosure hearing to exert the rights they now contend were violated. *See Sanders v. Sanders*, 1998 ME 100, ¶ 11, 711 A.2d 124 (holding that an issue not raised, discussed, or ruled on by the trial court is not preserved); *Dep’t of Env’tl. Prot. v. Woodman*, 1997 ME 164, ¶ 3 n.3, 697 A.2d 1295 (“It is well established that pro se litigants are held to the same standards as represented parties.”).

§ 3126-A(3)(A). Additionally, contrary to the Kwiatkowskys' contentions, monthly household expenses are not subtracted from a party's gross income prior to a determination of "disposable earnings." See § 3121(2) (defining "disposable earnings" as "that part of the earnings of any judgment debtor remaining after the deduction from those earnings of *any amounts required by law to be withheld*") (emphasis added). Rather, the other debts and obligations faced by the Kwiatkowskys were properly considered by the court pursuant to 14 M.R.S. § 3126-A(4)(F) ("In determining the amount of installment payments, the court may take into consideration . . . [a]ny other factors the court considers material and relevant.").

The entry is:

Judgment affirmed.

Joseph M. Baldacci, Esq., Bangor, for appellants Colt and Carol Kwiatkowski

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Bangor District Court docket numbers SA-2017-981, 982
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