

FORREST W. DALE

v.

AMBER L. DALE

Submitted on Briefs January 17, 2019
Decided January 24, 2019

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

MEMORANDUM OF DECISION

Forrest W. Dale appeals from a judgment of divorce from Amber L. Dale entered by the District Court (Machias, *D. Mitchell, J.*) after a contested hearing. Explicitly disclaiming any challenge to the court's division of property, Forrest asserts that the court erred by awarding sole parental rights and responsibilities and primary residence of the couple's child to Amber after finding that the testimony of three witnesses called by Forrest was not credible. Forrest also contends that the court made certain other erroneous factual findings.

Because "it is the trial court's province to make credibility determinations between competing evidence," *Violette v. Violette*, 2015 ME 97, ¶ 16, 120 A.3d 667, and because we "defer to the trial court's determination of witnesses' credibility," *Hutt v. Hanson*, 2016 ME 128, ¶ 14, 147 A.3d 352 (quotation marks omitted), we do not disturb the court's determination that the testimony of the witnesses—and, for that matter, much of Forrest's own testimony—was not credible. *See also Berg v. Bragdon*, 1997 ME 129, ¶ 10, 695 A.2d 1212 ("The trial court, and not an appellate court, is the appropriate

arbiter of the credibility of witnesses' testimony and the weight of the evidence.").

Further, to the limited extent that Forrest's remaining assertions have been preserved for appellate review and rise to the level of proper appellate argument, they are unpersuasive.

The entry is:

Judgment affirmed.

Jeffrey C. Toothaker, Esq., Ellsworth, for appellant Forrest W. Dale

Suzanne S. Barrett, Esq., Machias, for appellee Amber L. Dale

Machias District Court docket number FM-2017-14
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