

TODD A. KILBORN

v.

NICOLE E. CAREY et al.

Submitted on Briefs May 30, 2019
Decided June 6, 2019

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

MEMORANDUM OF DECISION

Todd A. Kilborn appeals from an order entered in the District Court (Portland, *J. French, J.*) denying in part his motion to modify both a divorce judgment and a separate judgment establishing parental rights and responsibilities.¹ We affirm the court's order.

Although Kilborn asserts that the court erred by concluding that Nicole E. Carey's notice of relocation did not constitute a substantial change of circumstances since the issuance of the prior judgment, *see* 19-A M.R.S. § 1657(2)(A-1) (2018), the court also framed its analysis based on the alternative predicate that in fact there had been a change of circumstances. Therefore, any error in the former was harmless. *See* M.R. Civ. P. 61; *Shaw v. Packard*, 2005 ME 122, ¶ 13, 886 A.2d 1287.

Next, contrary to Kilborn's contention, the court did not err by denying his motion for further findings of fact, *see* M.R. Civ. P. 52, because the court's

¹ The same order granted the aspect of Kilborn's motion seeking a modification of child support. That part of the order is not at issue on this appeal.

findings were already sufficient to inform the parties and a reviewing court of the basis for its decision. *See Ehret v. Ehret*, 2016 ME 43, ¶ 9, 135 A.3d 101.

Finally, because at the hearing Kilborn bore the burden of proof on his motion, *see Little v. Wallace*, 2016 ME 93, ¶ 13, 142 A.3d 585, he must demonstrate on appeal that the evidence compelled the court to make the findings necessary to grant his motion. *See Handrahan v. Malenko*, 2011 ME 15, ¶ 13, 12 A.3d 79. The record reveals that the court neither was compelled to make such findings nor abused its discretion by determining that the children's best interests are served pursuant to the existing arrangement of parental rights and responsibilities. *See* 19-A M.R.S. § 1653(3) (2018); *see also Akers v. Akers*, 2012 ME 75, ¶ 5, 44 A.3d 311; *Bulkley v. Bulkley*, 2013 ME 101, ¶ 14, 82 A.3d 116.

The entry is:

Judgment affirmed.

Heather T. Whiting, Esq., MittelAsen, LLC, Portland, for appellant Todd A. Kilborn

Peter W. Evans, Esq., Peter W. Evans Attorney At Law, LLC, Gorham, for appellees Nicole E. Carey and Benjamin Knight