

EMMA R. SOLORZANO

v.

CODY A. CRAIG

Submitted on Briefs April 19, 2023  
Decided April 27, 2023

Panel: STANFILL, C.J., and MEAD, HORTON, CONNORS, LAWRENCE, and DOUGLAS, JJ.

## MEMORANDUM OF DECISION

Cody A. Craig appeals from a divorce judgment entered by the District Court (Wiscasset, *Martin, J.*) allocating primary residence of the parties' child and sole parental rights and responsibilities to Emma R. Solorzano but allowing Craig rights of contact. The court did not, as Craig contends, commit obvious error, in violation of the Free Exercise Clause of the First Amendment to the United States Constitution,<sup>1</sup> by allocating parental rights and responsibilities in a way that will ensure that the child is safe from the danger posed not by Craig's religious beliefs but by his controlling and abusive behavior. *See In re*

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<sup>1</sup> Although we ordinarily apply the primacy approach by interpreting the Maine Constitution first and considering corresponding federal constitutional provisions only if the Maine Constitution does not settle the issue, *see State v. Moore*, 2023 ME 18, ¶ 17, 290 A.3d 533, Craig mentioned the state constitution only in a cursory manner in a footnote, *see State v. Lepenn*, 2023 ME 22, ¶ 1 n.3, --- A.3d ---, and "considerations of judicial restraint" caution us to refrain from deciding important state constitutional questions without proper briefing and argument, *State v. Philbrick*, 481 A.2d 488, 493 n.3 (Me. 1984).

*Anthony R.*, 2010 ME 4, ¶ 9, 987 A.2d 532; 19-A M.R.S. § 1653(3), (6) (2022);<sup>2</sup> *cf. Osier v. Osier*, 410 A.2d 1027, 1029 (Me. 1980) (encouraging courts to, when possible, determine a child’s best interest in allocating parental rights without considering either parent’s religious practices). Nor did the court err in considering Craig’s mental health—even in the absence of a diagnosis—given the competent evidence in the record of Craig’s unusual behavior and his admission to Solorzano that he thought he might be diagnosed with a psychological disorder if evaluated. *See Proctor v. Childs*, 2023 ME 6, ¶ 6, 288 A.3d 815.

The entry is:

Judgment affirmed.

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Carl E. Woock, Esq., and Stephen C. Smith, Esq., Steve Smith Trial Lawyers,  
Augusta, for appellant Cody A. Craig

Eric B. Morse, Esq., Strout & Payson, P.A., Rockland, for appellee Emma R.  
Solorzano

Wiscasset District Court docket number FM-2021-174  
FOR CLERK REFERENCE ONLY

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<sup>2</sup> Section 1653(3) was amended after the judgment was entered in this case. *See* P.L. 2021, ch. 647, § B-46 (effective Jan. 1, 2023) (codified at 19-A M.R.S. § 1653(3)(O) (2023)). The amendment is not pertinent in this matter, and we cite the version of the statute in effect at the time of the judgment.