

ALYSSA GAGNE

v.

JEROMY GAGNE

Submitted on Briefs April 24, 2024
Decided May 28, 2024

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

MEMORANDUM OF DECISION

Alyssa Gagne appeals from a District Court (Biddeford, *Tice, J.*) judgment denying her petition for an order of protection from abuse against Jeromy Gagne, on behalf of herself and the parties' minor child. Contrary to her contentions, the court did not misconstrue 19-A M.R.S. § 4102(1) (2024) in reaching its decision. *See Doe v. Roe*, 2022 ME 39, ¶ 18, 277 A.3d 369. The court also did not abuse its discretion when it determined that it was not necessary to issue a protection from abuse order to bring about the cessation of abuse, *see* 19-A M.R.S. § 4110(1) (2024), given the context of generally vague allegations of unwanted physical and sexual conduct, the parties' continued relationship and ultimate marriage, and the passage of more than five years since the purported first, and most detailed, alleged incident of such physical conduct.¹ Moreover, the evidence did not compel the court to find that Jeromy

¹ In her brief, Alyssa argues that the court erred by declining to find she experienced "nonconsensual sexual contact" that constituted abuse. 19-A M.R.S. § 4102(1)(A) (2024); 17-A M.R.S. § 251 (2024). This argument was not raised before the trial court and therefore is not properly before us. *See Warren Construction Group v. Reis*, 2016 ME 11, ¶ 9, 130 A.3d 969 ("It is a well settled universal rule of appellate procedure that a case will not be reviewed by an appellate court on a theory different from that on which it was tried in the court below." (quotation marks omitted)).

abused Alyssa by placing her in reasonable fear of bodily injury when he entered her home or that a protection order was necessary to bring about a cessation of that conduct. *See* 19-A M.R.S. § 4102(1)(A), (B); *Handrahan v. Malenko*, 2011 ME 15, ¶ 13, 12 A.3d 79; *Bergin v. Bergin*, 2019 ME 133, ¶ 13, 214 A.3d 1071; *Jusseume v. Ducatt*, 2011 ME 43, ¶¶ 17-18, 15 A.3d 714.

The entry is:

Judgment affirmed.

Erika L. Connolly, Esq., Legal-Ease, LLC, South Portland, for appellant Alyssa Gagne

Jason M. Rice, Esq., Dirigo Divorce, Springvale, for appellee Jeromy Gagne

Biddeford District Court docket number PA-2023-519
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Regardless, we discern no error in the court's conclusion that a protection from abuse order was not necessary to bring about the cessation of any form of abuse based on the record in this case.