

PATRICIA MARRINER

v.

CHARLES BRYANT

Submitted on Briefs May 29, 2003

Decided July 29, 2003

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,  
and CALKINS, JJ.

#### MEMORANDUM OF DECISION

Charles Bryant appeals from the judgment of the District Court (Belfast, *Anderson, J.*) denying his motion to reduce his child support obligation and ordering him to pay Patricia Marriner all the proceeds of any insurance settlement or verdict from his pending lawsuit until his child support arrearage is paid in full. Contrary to Bryant's contentions, the court did not abuse its discretion when it calculated his child support obligation based on a current earning capacity of \$25,000 because, as fact-finder, the court could find that the evidence of Bryant's

alleged disability lacked credibility and reject that evidence. *See State v. Bartlett*, 661 A.2d 1107, 1108 (Me. 1995).

Moreover, the court did not err when it ordered Bryant to apply the full amount of any insurance settlement or verdict to his child support arrearage without first exempting \$12,500 of the potential award pursuant to 14 M.R.S.A. § 4422(14)(D)-(E) (2003)<sup>1</sup> because, until Bryant receives the award, the court could not determine what portion of the award might be wholly or partially exempt. *See id.*

Finally, the court did not err when it failed to address Bryant's request to claim his children as dependents on his tax returns during alternating years. Because Bryant mentioned this issue only once briefly at the beginning of the hearing and did not present the court with any reason why it should modify the existing order and depart from the general rule that the custodial parent is the parent who is entitled to claim dependency exemptions, *see Levy, Maine Family Law: Divorce, Separation and Annulment* § 6.7.2 at 240 (2000), the issue is not sufficiently preserved, *see Berg v. Bragdon*, 1997 ME 129, ¶¶ 9-10, 695 A.2d 1212, 1214-15 (explaining that an issue was not sufficiently preserved when

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<sup>1</sup> Subsection D exempts from attachment property that is traceable to payments, not to exceed \$12,500, for personal bodily injury but not pain and suffering or compensation for actual pecuniary loss. 14 M.R.S.A. § 4422(14)(D) (2003). Subsection E exempts compensation for loss of future earnings for "the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary to support the debtor and any dependent." *Id.* § 4422(14)(E).

necessary subsidiary facts in support of the argument had not been fully developed for a proper determination on appeal).

The entry is:

Judgment affirmed.

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For the plaintiff:

Patricia Marriner, pro se  
1053 Beach Rd.  
Lincolnton, Maine 04849

Attorney for the defendant:

Adrienne L. Fernstrom, Esq.  
Strout & Payson  
P.O. Box 248  
Rockland, Maine 04841