

DIANA LYNNE OPERT

v.

MARCUS SHOREY

Submitted on Briefs November 25, 2003
Decided December 2, 2003

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

MEMORANDUM OF DECISION

Marcus Shorey appeals from a final protection from abuse order entered in the District Court (Bangor, *Griffiths, J.*). He challenges the sufficiency of the evidence and claims that the court committed evidentiary errors. He also contends that the court was biased against him and abused its discretion by denying him a recess to obtain the presence of his witness. He further claims he has new evidence. There is no transcript of the proceedings, and Shorey's statement of the evidence was not approved by the trial court. *See* M.R. App. P. 5(d). Therefore, we must assume that the court did not err or abuse its discretion in its trial rulings,

was not biased, and that there was sufficient evidence for the court to issue the protection from abuse order. *See State v. Nugent*, 2002 ME 111, ¶ 2, 801 A.2d 1001, 1002. As for Shorey's claim of new evidence, he failed to raise the issue in a motion pursuant to M.R. Civ. P. 60(b)(2), and we are unable to review it. Insofar as Shorey also appeals from a January 21, 2003, order (*Russell, J.*), he has failed to preserve an appeal of that order because he has not briefed it. *See State v. Rusher*, 468 A.2d 1008, 1009 (Me. 1983) ("Ordinarily, issues which are not raised and briefed on appeal are deemed waived.").

The entry is:

Judgment affirmed.

For plaintiff:

Diana L. Opert
(address confidential)

For defendant:

Marcus E. Shorey
Maine State Prison
807 Cushing Road
Warren, ME 04864-4600