

JESSICA SIMMONS

v.

MATTHEW SIMMONS

Submitted on Briefs July 1, 2004  
Decided August 6, 2004

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

#### MEMORANDUM OF DECISION

Matthew Simmons appeals from a divorce judgment entered in the District Court (Bangor, *Gunther, J.*) granting sole parental rights and responsibilities to Jessica Simmons and outlining his rights of visitation with his children and his child support obligations. Contrary to Matthew's contentions, determinations of witness credibility are within the sole province of the fact-finder, *State v. McCurdy*, 2002 ME 66, ¶ 10, 795 A.2d 84, 88; awarding sole parental rights and responsibilities to Jessica in light of the testimony and evidence of domestic abuse was not an unsustainable exercise of the court's discretion, *see Williams v. Williams*, 1998 ME 32, ¶ 8, 706 A.2d 1038, 1040; and the amount of child support

awarded to Jessica did not violate “a positive rule of law or result[] in a plain and unmistakable injustice, so apparent that it is instantly visible without argument,” *Hedrich v. Hedrich*, 1998 ME 248, ¶ 2, 720 A.2d 1157, 1158 (quotation marks omitted).

Finally, in a civil action, it is not a proper ground for appeal that one’s lawyer made a mistake because a party is charged with his or her attorney’s actions of commission as well as omission, and “any neglect of the attorney is equivalent to that of the party.” *Mockus v. Melanson*, 615 A.2d 245, 247 (Me. 1992).

The entry is:

Judgment affirmed.

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