

ERIC PROCTOR

v.

HEIDI GARDNER

Submitted on Briefs November 16, 2004  
Decided December 14, 2004

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

#### MEMORANDUM OF DECISION

Heidi Gardner appeals from an order entered in the District Court (Bangor, *Russell, J.*) contending that the court lacked jurisdiction to modify the custody arrangement for her son. After Gardner filed her appeal, Eric Proctor moved to dismiss the appeal because Gardner failed to file a transcript pursuant to M.R. App. P. 5(b). By order of this Court, Proctor's motion was consolidated with the appeal.

Because a court's subject matter jurisdiction involves a question of law, not the sufficiency of the evidence, *see Cummings v. Bean*, 2004 ME 93, ¶ 7, 853 A.2d

221, 223, we deny Proctor's motion. Contrary to Gardner's contentions, however, substantial evidence regarding the child's care, protection, training, and personal relationships was available to the court, *see* 19-A M.R.S.A. § 1746 (Supp. 2004), and even if Gardner properly preserved a challenge based on *forum non conveniens*, there is no evidence that the court exceeded its discretion by exercising jurisdiction, *see Shanoski v. Miller*, 2001 ME 139, ¶ 16, 780 A.2d 275, 279.

The entry is:

Judgment affirmed.

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