

TABAITHA (BLODGETT) STEWARD

v.

KELLY BLODGETT SR.

Submitted on Briefs July 29, 2008
Decided August 26, 2008

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and
GORMAN, JJ.

MEMORANDUM OF DECISION

Tabaitha (Blodgett) Steward appeals from a judgment denying her motion to modify child support entered in the District Court (Rumford, *McElwee, J.*) upon adoption of a family law magistrate's (*Carlson, M.*) order. Contrary to Steward's contentions, (1) the court did not err in finding that the presumption of unavailability for employment established by 19-A M.R.S. § 2001(5)(D) (2007) was inapplicable to her because that statute applies only "[i]n the absence of evidence in the record to the contrary," *id.*; see *Payne v. Payne*, 2008 ME 35, ¶ 6, 942 A.2d 713, 715; and (2) Steward was also not entitled to any reduction in her child support obligation pursuant to 19-A M.R.S. § 2006(5)(A) (2007) because the adjustment established in that statute will not be used "when the result would be a reduction in an award previously established," *id.* We need not, and do not, determine whether sections 2001(5)(D) and 2006(5)(A) may ever conflict because they do not conflict based on the facts of the present case.

The entry is:

Judgment affirmed.

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