

KAREN PINKHAM

v.

RONALD PINKHAM II

Submitted on Briefs November 4, 2008

Decided November 6, 2008

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

#### MEMORANDUM OF DECISION

Ronald D. Pinkham appeals from a judgment entered in the District Court (Skowhegan, *Dow, J.*) modifying his child support obligation.

Contrary to Ronald's contention, the court did not abuse its discretion when admitting Department of Labor statistics in evidence as proof of Ronald's earning capacity, even though Ronald learned of Karen's intent to seek admission of that evidence the day before the hearing. *See* 19-A M.R.S. § 2004(1)(E) (2007) ("The court may admit Department of Labor statistics into evidence for purposes of computing a parental support obligation."); *Ames v. Ames*, 2003 ME 60, ¶ 13, 822 A.2d 1201, 1206 (stating decisions regarding the admissibility of evidence are subject to review for abuse of discretion). In addition, there is competent evidence in the record to support the finding that Ronald is underemployed and is capable of earning \$42,000 per year. 19-A M.R.S. § 2001(5)(D) (2007) ("Gross income may include the difference between the amount a party is earning and that party's earning capacity when the party voluntarily becomes or remains unemployed or underemployed."); *see also Koszegi v. Erickson*, 2004 ME 113, ¶¶ 13-14, 855 A.2d 1168, 1171 (finding of father's voluntary underemployment supported by evidence

that he had no apparent limitation on his work capacity, and had voluntarily chosen not to seek employment).

The entry is:

The judgment modifying child support is affirmed.

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**Attorney for Ronald Pinkham II:**

Anthony P. Shusta II, Esq.  
Law Office of Anthony P. Shusta II  
PO Box 170  
Madison, Maine 04950-0170

**Attorney for Karen Pinkham:**

Paul Sumberg, Esq.  
Wright & Mills, P.A.  
PO Box 9  
Skowhegan, Maine 04976