

MICHELLE E. DEABAY

v.

FREEMAN J. DEABAY III

Submitted on Briefs November 27, 2007  
Decided January 8, 2008

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

#### MEMORANDUM OF DECISION

Michelle E. Deabay appeals from a divorce judgment entered in the District Court (Presque Isle, *O'Mara, J.*) finding that Freeman J. Deabay III is a de facto parent of Michelle's son and awarding Freeman shared parental rights and responsibilities and rights of contact. Contrary to Michelle's contention, the court did not err in considering an award of parental rights to Freeman despite the fact that the child was not listed in Michelle's complaint for divorce or in Freeman's answer and counterclaim. Both parties agreed to litigate the issue prior to the final

divorce hearing and both parties proceeded on that basis. *See also Young v. Young*, 2004 ME 44, ¶¶ 3-4, 845 A.2d 1144, 1145.

In addition, the court did not err in awarding Freeman shared parental rights and responsibilities after it determined that he was a de facto parent of the child. *See C.E.W. v. D.E.W.*, 2004 ME 43, ¶¶ 10, 15, 845 A.2d 1146, 1150-51, 1152. Finally, it was not error for the court to award Freeman reasonable rights of contact with the child. 19-A M.R.S. § 1653(2)(B) (2006); *Young*, 2004 ME 44, ¶¶ 4-5, 845 A.2d at 1145.

The entry is:

Judgment affirmed.

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Appellee did not file a brief.