

NORMAN S. YATES

v.

SANDRA J. YATES

Submitted On Briefs October 14, 2009

Decided November 10, 2009

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

MEMORANDUM OF DECISION

Sandra J. Yates appeals from an order for protection from abuse issued in the District Court (Ellsworth, *Staples, J.*) on Norman S. Yates's complaint. Sandra contends that the court erred in finding that she engaged in a course of conduct to place Norman in fear of bodily injury pursuant to 19-A M.R.S. § 4002(1)(B) (2008). Norman cross-appeals, arguing that Sandra committed abuse by multiple means. We affirm the judgment on alternate grounds.¹

Sandra argues that her acts—driving at a high rate of speed into Norman's driveway and steering toward Norman, forcing him to jump back to avoid being hit by Sandra's vehicle—do not constitute a course of conduct within the meaning of section 4002(1)(B) as a matter of law because Norman's complaint stemmed from only one incident. Although the interpretation of the "course of conduct" language in section 4002(1)(B) is a matter of law we afford de novo review, *see L'Heureux v. Michaud*, 2007 ME 149, ¶ 5, 938 A.2d 801, 802, we need not decide the meaning of the phrase in the instant matter because the court's findings of fact

¹ Although the protection order expired on April 23, 2009, and the court subsequently denied Norman's motion to extend the order, we consider Sandra's appeal based on the exception to the mootness doctrine for time-limited judgments that may otherwise escape appellate review. *See Ewing v. Me. Dist. Ct.*, 2009 ME 16, ¶ 11 n.4, 964 A.2d 644, 647.

support a determination that Sandra committed abuse by another means. More particularly, the court adopted as findings of fact Norman's testimony regarding the events of the incident. A reasonable inference of Norman's testimony is that, by her actions, Sandra communicated to Norman a threat to commit a crime of violence dangerous to Norman's life, and that Norman reasonably feared that Sandra would carry out that threat. These findings alternatively support a finding of abuse pursuant to 19-A M.R.S. § 4002(1)(E) (2008).

Further, contrary to Sandra's contention, the court's findings of fact do not constitute clear error in that each finding is supported by competent evidence in the record. *See Cole v. Cole*, 2008 ME 4, ¶ 3, 940 A.2d 194, 195. Finally, because we affirm the judgment, we need not consider Norman's contention that Sandra also committed abuse by hitting him with her car door.

The entry is:

Judgment affirmed.

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