

CHARLES E. SHAW II

v.

KELLY J. SHAW

Argued November 10, 2009
Decided December 29, 2009

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

MEMORANDUM OF DECISION

Kelly J. Shaw appeals from a judgment entered in the District Court (Lewiston, *McElwee, J.*) granting Kelly and Charles E. Shaw II a divorce. She contends that the court erred in enforcing the spousal support elimination provision in the parties' premarital agreement because, without spousal support, she qualifies for public assistance. Therefore, pursuant to the Uniform Premarital Agreement Act, 19-A M.R.S. § 608(2) (2008), Kelly argues that the court should have ordered Charles to pay her spousal support notwithstanding the terms of their premarital agreement.

Because Kelly failed to file a motion for findings of fact and conclusions of law pursuant to M.R. Civ. P. 52, we assume that the divorce court found all the facts necessary to support the judgment to the extent that such facts are supported in the record. *Sutherland v. Morrill*, 2008 ME 6, ¶ 5, 940 A.2d 192, 193. As the party requesting spousal support notwithstanding the premarital agreement, Kelly had the burden of proving the extent of support necessary to make her ineligible for public assistance. She failed to do so. In view of the above, the record does not support Kelly's contention that the court had no basis for finding that section

608(2) should not take effect. The premarital agreement was valid, and pursuant to this agreement Kelly was not entitled to spousal support.

Kelly raises two additional arguments on appeal: that the court (1) erred in distributing Charles's retirement account, and (2) abused its discretion in failing to award her the full cost of her attorney fees. After carefully reviewing the record, we are not persuaded by either argument. First, because the parties' premarital agreement was valid and enforceable, the court did not err in distributing Charles's retirement account consistent with the terms of that agreement. *See Estate of Martin*, 2008 ME 7, ¶¶ 16-18, 938 A.2d 812, 819-20. Second, under the totality of the circumstances, the court's decision on attorney fees was ultimately fair. *See Harmon v. Harmon*, 2009 ME 2, ¶ 12, 962 A.2d 959, 963.

The entry is:

Judgment affirmed.

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