

KIMBERLY J. (NADEAU) BRENNAN

v.

ROBERT M.A. NADEAU

Submitted on Briefs July 21, 2010

Decided July 27, 2010

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

MEMORANDUM OF DECISION

Robert M.A. Nadeau appeals from a divorce judgment entered in the District Court (West Bath, *Field, J.*) awarding Kimberly J. (Nadeau) Brennan attorney fees, child support and spousal support, and denying Robert's motion for relief from judgment pursuant to M.R. Civ. P. 60(b), following remand from this Court, *see Nadeau v. Nadeau*, 2008 ME 147, 957 A.2d 108. Robert contends that the court erred by: (1) awarding Kimberly pre-appeal and appeal-related attorney fees; (2) failing to retroactively reduce Robert's support orders to the time he filed a prior motion for modification; (3) imputing to him a prospective annual income of \$100,000 for purposes of his child and spousal support orders; and (4) not crediting him with money he alleges was paid for Kimberly's insurance since the divorce judgment.

Contrary to Robert's assertions, the court did not err in implementing our mandate from *Nadeau I*, nor did it err in its ultimate conclusion that the fee charged by Kimberly's legal counsel was reasonable given the extensive and complex proceedings. *See* 19-A M.R.S. § 105(1) (2009); *Nadeau*, 2008 ME 147, ¶ 61, 957 A.2d at 123-24; *Urquhart v. Urquhart*, 2004 ME 103, ¶ 6, 854 A.2d 193, 195 (holding that when awarding attorney fees, a party's conduct may be taken

into account “especially when costs of litigation, or other expenses related to the divorce, have been needlessly increased”).

Furthermore, contrary to Robert’s argument, the court was not mandated to relate modification of his support orders back to the date he filed an earlier motion to modify, as the prior motion had already been dismissed, and consequently, was without legal significance for purposes of retroactivity. Additionally, the court was not required to find credible Robert’s testimony that payments he made to Kimberly were for insurance. Finally, contrary to Robert’s assertion that the court erred by imputing to him an annual income of \$100,000, the court’s findings of Robert’s prospective earning capacity are supported by competent evidence in the record. *See* 19-A M.R.S. § 2001(5)(D); 19-A M.R.S. § 951-A(5)(B), (D), (E); *Carolan v. Bell*, 2007 ME 39, ¶ 19, 916 A.2d 945, 950; *Wrenn v. Lewis*, 2003 ME 29, ¶ 13, 818 A.2d 1005, 1009. Robert’s remaining contentions are without merit, and we do not address them here.

The entry is:

Judgment affirmed.

Robert M.A. Nadeau, pro se:

Robert M.A. Nadeau, Esq.
Nadeau Legal PLLC
38 South River Road
Bedford, New Hampshire 03110-6717

Kimberly J. Brennan, pro se:

Kimberly J. Brennan
132 Cole Road
Kennebunk, Maine 04043