

CHARLES A. RANKOWSKI

v.

GAYLE A. FITZPATRICK

Submitted On Briefs July 7, 2010

Decided July 29, 2010

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

#### MEMORANDUM OF DECISION

Gayle A. Fitzpatrick appeals from a judgment of divorce entered in the District Court (Portland, *Moskowitz, J.*). Contrary to Fitzpatrick's contentions, the District Court did not err or abuse its discretion in dividing the debt and property. *See Leary v. Leary*, 2007 ME 63, ¶ 9, 926 A.2d 186, 188 ("We review a court's division of property and debts for an abuse of discretion."); *see also* 19-A M.R.S. § 953(2)(B) (2009) (noting that "[p]roperty acquired in exchange for property acquired prior to the marriage" is not marital property).

Further, the court did not abuse its discretion in imputing an income to Fitzpatrick. *See Koszegi v. Erickson*, 2004 ME 113, ¶ 14, 855 A.2d 1168, 1171 ("It is within the trial court's discretion to impute earning capacity to a parent who the court finds is voluntarily underemployed."); *see also Sutherland v. Morrill*, 2008 ME 6, ¶¶ 4-5, 940 A.2d 192, 193-94 (noting that when neither party moves for further findings of fact pursuant to M.R. Civ. P. 52(a), we assume that the District Court found all facts necessary to support the outcome as long as the evidence in the record supports these findings). Finally, the court did not abuse its discretion in awarding transitional spousal support to Fitzpatrick. *See* 19-A M.R.S. § 951-A(5) (2009).

Fitzpatrick does, however, correctly note that the District Court failed to order either party to provide health insurance to the parties' minor child pursuant to 19-A M.R.S. § 1653(8)(C) (2008).<sup>1</sup> We therefore modify the order to require Rankowski to provide the parties' child with health insurance to the extent that it is available to him at reasonable cost.

The entry is:

Judgment affirmed. Remanded to the District Court for entry of an order requiring Rankowski to provide health insurance in accordance with the terms of this opinion.

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Portland District Court docket number FM-2006-146  
FOR CLERK REFERENCE ONLY

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<sup>1</sup> Title 19-A M.R.S. § 1653(8) has since been amended. P.L. 2009, ch. 290, § 6 (effective Sept. 12, 2009) (codified at 19-A M.R.S. § 1653(8)(C) (2009)).