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APPENDIX A

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 22-122
Docket No. Yor-22-12

DEVAN (SKATTUM) COLLOMY

v.

BRIAN D. SKATTUM

Submitted on Briefs November 17, 2022
Decided December 15, 2022

Panel: STANFILL, C.J., and MEAD, JABAR,
CONNORS, and LAWRENCE, JJ.

MEMORANDUM OF DECISION

Brian D. Skattum appeals from a divorce judgment entered by the District Court (Biddeford, *Tice, J.*) granting Devan (Skattum) Collomy's complaint for divorce and awarding her sole parental rights and responsibilities and primary residence of the parties' two minor children. Contrary to Skattum's arguments,¹ the court did not deprive him

¹ Because Skattum failed to file an appendix that complied with M.R. App. P. 8, we struck his appendix, ordered that the appeal would proceed without an appendix, struck the portion of his brief containing "challenges to the trial court's findings and discretionary rulings," and limited his appeal to the legal issues raised in his brief. Further, because Skattum failed to timely

of due process. See *Jusseume v. Ducatt*, 2011 ME 43, ¶ 12, 15 A.3d 714.

Further, even considering the discretionary decisions that Skattum alleges were erroneous and led to a deprivation of his due process rights, we conclude that there was no abuse of discretion by the court's (*Tice, J.*) denial of Skattum's motion to stay the proceedings pending the resolution of his criminal case, see *Cutler Assocs., Inc. v. Merrill Tr. Co.*, 395 A.2d 453, 456-57 (Me. 1978); *Soc'y of Lloyd's v. Baker*, 673 A.2d 1336, 1337, 1340-41 (Me. 1996), or by the court's (*Cadwallader, M.*) decision to fine Skattum as a sanction for his failure to respond to Collomy's discovery requests, see *In re A.M.*, 2012 ME 118, ¶ 14, 55 A.3d 463; M.R. Civ. P. 37(b)(2); *State v. Norwood*, ¶¶ 6-11, 97 A.3d 613. Finally, we also conclude that the court (*Tice, J.*) did not err in drawing an adverse inference from Skattum's invocation of his Fifth Amendment right to remain silent. See M.R. Evid. 513(b).²

The entry is:

Judgment affirmed.

file the fee associated with the transcript for the evidentiary hearing, we do not consider the transcript with his appeal. See M.R. App. P. 5(b)(2)(B)(i); see also *Greaton v. Greaton*, 2012 ME 17, ¶ 2, 36 A.3d 913. Despite these limitations in the appellate record, we reject Collomy's argument that the record is insufficient for our review. Cf. *Greaton*, 2012 ME 17, ¶¶ 1, 5-6, 36 A.3d 913.

² We reject Collomy's contention that Skattum failed to preserve the above arguments, and we find Skattum's remaining arguments without merit and do not address them. As well, to the extent that Collomy is requesting attorney fees associated with this appeal, we deny her request.

Brian D. Skattum, appellant pro se

Jeanette M. Durham, Esq., Maine Family Law LLC,
Kennebunk, for appellee Devan Collomy.

APPENDIX B

STATE OF MAINE
YORK, ss.

MAINE DISTRICT COURT
LOCATION: SPRINGVALE
Docket: BIDDC-FM-2020-18

DEVAN C. SKATTUM, Plaintiff
v.
BRIAN D. SKATTUM, Defendant

DIVORCE JUDGMENT

Notice of the pendency of this action has been duly and seasonably given according to law. A final hearing was held on October 20, 2021 on Plaintiff's Complaint for Divorce dated January 8, 2020, with service of the same made upon Defendant on January 11, 2020. Present before the Court for the final hearing held as a remote proceeding via Zoom, were the following: Plaintiff, Devan Skattum, represented by Jeanette Durham, and Defendant, Brian Skattum, representing himself. After careful review of the Court's entire casefile and consideration of the evidence and testimony presented at hearing, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

PROCEDURAL HISTORY

The plaintiff filed motions for sanctions against the defendant on June 8, 2021. Thereafter, the plaintiff also filed in motion to compel discovery and a motion to produce documents. prior to the begin-

ning of the trial the court heard arguments on the motions and granted the motion for sanctions based on the defendant's lack of meaningful compliance with discovery documents and information regarding income. The sanction was in the form of a prohibition of the defendant from introducing evidence regarding income during the course of the hearing.*

FINDINGS

1. The parties, plaintiff Devan Skattum (hereafter plaintiff or Devan) and defendant Brain Skattum (hereafter defendant or Brian) were married on April 23, 2012.
2. At the time of their marriage, the defendant was in the United States Air Force.
3. The parties are the natural and legal parents of two children born of the marriage, namely:
 [R. S.]. born [in] 2018; and
 [R. S.], born [in] 2016.
4. The plaintiff filed for divorce January 17, 2020.
5. The plaintiff and the children lived in Biddeford, Maine since October, 2019.
6. This court has jurisdiction in this matter.
7. The plaintiff's request for a divorce was based on irreconcilable marital differences.
8. The defendant, Brian, is opposed to the divorce.
9. The court finds that differences exist in this marriage that are irreconcilable, and will grant a divorce on that basis.
10. There is currently a protection from abuse order in effect on behalf of the plaintiff, seven, and the two children against the defendant, Ryan. (BIDDC-PA2019-560) The order prohibits any contact

* Petitioner reproduces the Divorce Judgment as it was given to him, including the typos within said document. Minor children's names and birth dates are redacted pursuant to Rule 34.6.

between the parties and has a current end date in effective January 13, 2022. The plaintiff intends to request an extension of this order.

11. The defendant currently has domestic violence criminal charges pending against him where the plaintiff, Devan, is the alleged victim. A bail bond is in effect which also limits or prohibits contact between the parties.

12. The incident that underlies both the protection from abuse complaint against the defendant as well as the criminal charges against him occurred on December 27, 2019.

13. The plaintiff, Devan, gave the following description of the events that day which the court finds extremely credible. These are the facts which the court finds relating to the December 27, 2019 incident:

The plaintiff went to a nearby hotel where the defendant was temporarily staying. She went there to discuss the marriage with the defendant. During this discussion, the defendant became enraged and grabbed the plaintiff by her throat violently, her eyes got spotty, and she could not breathe. He was yelling and screaming and proceeded to pull sweatshirt over her head and punched the plaintiff repeatedly. The plaintiff had recently undergone gallbladder surgery and was also suffering pancreatitis and had stitches in her stomach. The defendant kicked and punched her repeatedly in that area of her body. Defendant pushed the plaintiff to the ground while screaming at her to get out. Plaintiff's foot got stuck in the door while attempting to leave,. But she freed herself and went to her vehicle and locked the doors and called her father. The defendant followed the plaintiff in another vehicle driving erratically. Plaintiff temporarily lost the defendant but then came across him soon thereafter as he was walking the entrance to

the road where she was driving. She tried to back up and to avoid him but he blocked her in with his vehicle. The defendant yelled at her and then left the scene. Defendant crashed the car shortly thereafter but the circumstances are unclear as to how the crash occurred. Devon called 911 and reported the incident to the police and went to the hospital. She had an MRI indicated internal bruising. She was in significant pain and missed one week of work due to her injuries.

14. Devon also testified to several instances where the defendant used alcohol that are concerning and credible.

15. The court finds that the defendant, during the marriage, abused alcohol on a number of occasions. For example, the court finds that the defendant was intoxicated during the birth of one of the children to the point where he had to go to the bathroom and vomit.

16. The court also finds that the defendant was short tempered and easily stressed when caring for the children by himself.

17. The court also has significant concerns about the manner in which the defendant communicates with the plaintiff. In one instance, when the defendant was frustrated at not being able to find his car at the airport, he texted the following message to the plaintiff "hey cunt face, where's the car?"

18. The defendant, in the context of sleeping in his car to save money and also because the plaintiff's mother did not want him at her home, texted the plaintiff as follows: "Fuck all of you"; "If I was a bitch I'd kill myself"; and "I fucking hate your whole family". (exhibit 4a)

19. While the defendant does not want a divorce, he wants primary residence and "full custody" of the children if a divorce is granted.

20. Brian is currently living in the state of Montana on a farm.

21. Brian lives with his parents, a nine-year-old foster child of his parents, and a cousin.

22. Brian's proposal is that his mother would provide care and schooling for the children when he is at work and indicated that she is already homeschooling his foster sister.

23. Brian is licensed to work on commercial aircraft and no physical impediments to prevent him from working.

24. Brian was working at Piedmont airlines as a mechanic, but that job ended when he was arrested and charged with crimes against the plaintiff.

25. Brian has undergone faith-based counseling with a person named Chris Sedgwick in Bozeman Montana. These sessions occurred for a period of 6 to 7 months from March to December 2020.

26. The counseling is for drinking and anger issues. Brian testified that he was drinking more in 2019 than in previous years of the marriage.

27. Devan is, and has been, the primary caretaker of the children.

28. Devan has a work history but is currently not working but is currently collecting unemployment. She is looking for work. The court imputes minimum wage absent other information.

29. Devan has student loan debts (\$53,720) which she deferred payments on during the course of the marriage.

30. The parties have a birth related medical debt in the amount of \$20,664.94. The defendant has agreed to assume this debt.

31. There is also additional child medical debt in the amount of \$264 which, like the birth related debt, could have been covered by Tricare had the defendant submitted the necessary information.

32. The defendant invokes his fifth amendment rights when asked about the incidents in paragraph 13, above. The court makes an adverse inference regarding the defendant's involvement in the assault, but also finds the facts regarding the assault in paragraph 13. independently based on the credible testimony of the plaintiff.

DISCUSSION AND CONCLUSIONS OF LAW

This is a somewhat unusual divorce case where the defendant is asking the court not to grant a divorce. Despite that position by the defendant, it is clear to the court that the marriage is irretrievably broken and that irreconcilable differences exist that prevent any chance of a successful marriage moving forward. It is encouraging that Brian apparently recognizes that alcohol and anger issues exist and are affecting him in a negative manner. He has made some efforts in addressing these issues through counseling. Nonetheless, the findings of this court has made regarding the domestic violence in this relationship illustrate quite clearly that the marriage is over. Additionally, the idea that the parents have the current ability to co-parent under the circumstances is unrealistic and unsafe.

The court is going to allocate sole parental rights of the children to Devan. The children of the parties are currently in a safe, stable and loving environment with the parent, Devan, who has been the primary caretaker from birth. There are currently court orders preventing contact between Brian and Devan and the children. The length and extent of these restrictions is not known at this time. Despite the current restrictions, the court does recognize that the defendant is the father of the children and as such has potential to bring "much to the table" for the children as long as it is done in a

safe and meaningful way. Despite the current restrictions on contact, this order is designed to leave a path and place for meaningful contact in the future.

The court finds that it is in the best interest of the children that Devan have sole parental rights and primary residence.

A1. DIVORCE.

The court finds that the parties were lawfully married on April 23, 2012 in Abilene, Texas. The Court grants the parties a divorce from the bonds of matrimony on the grounds of irreconcilable marital differences.

A2. CHILDREN OF THE PARTIES.

The parties are the natural and legal parents of two children born of the marriage, namely:

[R.S.], born [in] 2018; and
[R.S.], born [in] 2016.

A3. PARENTAL RIGHTS AND RESPONSIBILITIES.

Plaintiff shall have sole parental rights and responsibilities of the parties' minor children. "**Sole parental rights and responsibilities**" means that one parent is granted exclusive parental rights and responsibilities with respect to all aspects of the child's welfare, with the exception that Defendant shall remain responsible for providing financial support for the minor children.

Plaintiff and the parties' two minor children were granted an Order of Protection on January 13, 2020 in BIDDC-PA-2019-560, which remains in effect as of the date of hearing. Under this order, Defendant is prohibited from having any contact,

direct or indirect, with Plaintiff or their two minor children.

Defendant is also prohibited from having any contact, direct or indirect, with Plaintiff or their minor children, pursuant to Conditions associated with the pending criminal charges in YRKCD-CR-2019-00978, including Class B, Aggravated Assault; Reckless Conduct with a Dangerous Weapon; and Operating Under the Influence.

A path to contact between the defendant and the children is below.

A4. PRIMARY RESIDENCE.

Primary residence of the minor children shall be with the Plaintiff. This is based on the "no contact" orders currently in effect and the domestic violence concerns stated above.

A5. RIGHTS TO PARENT/CHILD CONTACT.

For now, Defendant shall have no rights to any contact, direct or indirect, with either of their minor children. Once the collateral orders that prohibit such contact are no longer in effect, Defendant shall have the right to begin to establish a relationship with the children via Video/Facetime communications on a weekly basis. Once Defendant has consistently exercised the right to video communications, he will be entitled to bi-weekly supervised contact for no less than one hour at a professional supervision center that is local to Plaintiff. Defendant is responsible for all costs or fees associated with these visits. Contact, once any court ordered restrictions are lifted, may also be by agreement of the parties.

A6. OTHER PARENTING PROVISIONS.

Relocation: A parent who intends to relocate the residence of the children subject to this Judgment shall provide the other parent prior notice at least thirty (30) days before the intended relocation. If the relocation must occur in less than thirty (30) days, the parent who is relocating shall provide notice as soon as possible to the other parent. If the parent who is relocating believes notifying the other parent will cause danger to the parent or the children, the parent shall notify the District Court of the intended relocation, and the District Court shall provide appropriate notice to the other parent in a manner determined to provide safety to the relocating parent and children.

Access to Records: The court finds there to currently be good cause to prohibit Defendant from having access to records or information pertaining the minor children. This information includes, but is not limited to all forms of information: medical, mental health, dental, academic or school records, and activities.

A5. CHILD SUPPORT.

a. Current Child Support. Pursuant to 19-A M.R.S.A. § 2001 et seq., the Court has made certain findings of fact concerning the current parental support obligation computed under the presumptive application of the Child Support Guidelines. These findings are contained in the two Child Support Worksheets and Child Support Orders attached hereto and incorporated herein in their entirety.

The court finds Defendant's income to be \$55,257 per year. This finding is based upon the current data published by the U.S. Bureau of Labor Statistics, which list the mean wage earned by an airline mechanic in Montana is \$59,180 annually, and then adding Defendant's additional military

income of at least \$6,077 per year while he is enlisted in the US National Guard.

The child support obligation shall continue for each child until that child (i) reaches age eighteen (18), provided however, that if the child reaches age eighteen (18) while attending secondary school as defined in Title 20-A M.R.S.A. § 1, the child support obligation for the child shall continue until the child graduates, withdraws or is expelled from secondary school, or reaches age nineteen (19), whichever occurs first; (ii) becomes married; (iii) becomes a member of the armed services; or until further order of this Court.

b. Past Child Support Debt. The court finds that as of October 20, 2021, defendant owes a debt for past due child support in the amount of \$22,083.42. This debt includes credit for payments below, totaling \$12,252.21 plus one direct payment of \$192.

FY2021	FY2020
\$345.53	\$2,077.00
\$307.87	\$192.00
\$324.00	\$192.00
\$339.82	\$610.21
\$277.47	\$192.00
\$346.61	\$713.08
\$383.33	\$327.33
\$317.38	\$333.99
\$326.88	\$340.05
\$321.23	\$294.24
\$383.46	
\$487.68	
\$383.21	
\$188.18	
\$1,287.66	
\$960.00	

Total child support paid to DHHS in 2020: \$5,271.90

Total child support paid to DHHS in 2021: \$6,980.31

Attached hereto and incorporated herein are 10 individual child support worksheets, contemplating support based on changes in childcare and incomes. Worksheet #10 shows the guideline calculation for ongoing support, as set forth in the attached Child Support Order.

Below is a table showing the computation of child support arrears, factoring the frequently changing child support obligations set forth in the attached worksheets #1 through #10:

From	To	... Total Obligation/Debt
1/3/20	2/21/20	\$4,099.84
2/28/20	3/27/20	\$1,797.50
4/3/20	4/24/20	\$1,093.68
5/1/20	5/22/20	\$1,131.28
5/29/20	7/31/20	\$3,660.10
8/7/20	8/28/20	\$1,148.64
9/14/20	3/12/21	\$10,248.28
3/18/21	4/2/21	\$883.20
4/9/21	6/25/21	\$2,916.48
7/2/21	10/15/21	\$4,208.48
Paid to DHHS 2020:		-\$5,271.90
Paid to DHHS 2021:		-\$6,980.31
Paid Directly		-\$192.00
TOTAL DUE		\$18,743.27

A.6. SPOUSAL SUPPORT.

Neither party shall pay spousal support to the other either now or in the future, under any subsequent conditions or circumstances.

A.7. PERSONAL PROPERTY.

a. Each party is awarded the personal property now in his or her possession and each party shall be solely responsible for any indebtedness or liability arising from the personal property set aside to him or her and shall indemnify and hold the other party harmless thereon.

b. Within 30 days of docketing of this judgment, Defendant shall pay to Plaintiff the sum of \$175.00, through her counsel Jeanette Durham, Esq., to cover shipping costs that he agreed to pay prior to shipping but then refused to pay after those items were mailed to him at his mother's house in Montana.

**A.8. RETIREMENT ACCOUNTS/PENSION/
THRIFT SAVINGS PLAN(S)**

a. **TSP.** In Defendant's March 23, 2020 affidavit (admitted as Plaintiff's Exhibit 9), he references a loan against his TSP. During this litigation, defendant has willfully failed to provide any specific information about this TSP accounts, or any other accounts, therefore, the full account balance as of October 20, 2021 is hereby awarded to Plaintiff, together with any earnings on the entitlement until payment is made to Plaintiff. A Retirement Benefits Court Order is attached hereto and incorporated herein.

b. **Other retirement plan, IRA, 401k, pension, or annuity.** In Defendant's June 12, 2020 Child Support Affidavit, he listed a current balance of \$20,267 for these types of account. Defendant willfully refused to provide any further information about this balance, therefore, Plaintiff is awarded the sum of \$10,000. This may be paid to her by the account/plan administrator directly, or, if she is unable to obtain such a direct payment, defendant shall make forty (40) or more, monthly installment

payments of \$250 starting on January 1, 2022 until paid in full.

- i. If the account balance is less than \$20,267 as of October 20, 2021, Plaintiff is awarded an equity payment equal to the difference in amounts between the balance in the account as of that day and \$20, 267. This provision is intended to ensure that Plaintiff receives no less than \$10,000.
- ii. In the event that any tax liability arises from this award, responsibility shall be allocated as follows: Plaintiff is solely responsible for any tax liability associated with funds that are transferred to her by the account administrator; Defendant is responsible for any tax liability arising if such funds are not paid directly to Plaintiff by the account administrator.
- iii. The Court retains jurisdiction over the parties' civilian or military retirement accounts/plans for the purpose of issuing or amending any Domestic Relation Order or other order that may be required by the plan administrator in complying with the terms of this Order.
- iv. The parties shall promptly provide relevant information, through Plaintiff's counsel, to give effect to this division and shall promptly execute any documents necessary to effectuate the division of assets described herein above.

A.9. DEBTS.

a. There currently exists unpaid medical debt of \$21,159.34 for services provided to the parties children as follows:

- i. \$20,644.94 – birth of [R.S.], MaineHealth service dates: []2016-[]2016. Defendant agrees to assume this debt and hold the plaintiff harmless, see below.

ii. \$161 - [R. S.] MaineHealth service date []2016.
iii. \$89.40 - [R. S.] MaineHealth service date []2018.

iv. \$264 of additional debt is currently reported as four collection accounts on Plaintiff's credit report. Dates of service e: \$56.00 on 12/2016, \$69 on 7/3/2019, \$78 on 7/4/19, \$61 on 6/1/16.

b. Defendant shall pay to Plaintiff, through Jeanette Durham, Esq., the sum of \$264.00 within 60 days of docketing of this judgment, to immediately satisfy those four unpaid collections appearing on Plaintiff's credit report.

c. In addition, within 7 days following Defendant's receipt of a written demand from Plaintiff or her counsel or from a child support enforcement agency¹, defendant shall immediately take the following actions:

i. Defendant agrees to assume this debt. He shall take every effort to otherwise relieve Plaintiff from the obligation to pay the debt by either transferring the debt into his name, or otherwise securing himself as the guarantor for \$20,644.94 of the medical debt by any other means (ie: personal loan, etc.).

d. Except as otherwise provided herein, Plaintiff shall be solely responsible for the payment of debts, liabilities, or costs incurred by her or standing in her name. This includes student loan debt that has increased during the nine-year marriage Plaintiff shall indemnify and hold Defendant forever harmless with respect to the payment of these debts.

e. Except as otherwise provided herein, Defendant shall be solely responsible for the

¹ Such a written demand shall be given to Defendant upon any adverse action taken against Plaintiff in an effort to collect on the \$20,895.34 past medical debt.

payment of debts, liabilities, or costs incurred by him or standing in his name. Defendant shall indemnify and hold Plaintiff forever harmless with respect to the payment of these debts.

b. All debt which is not otherwise addressed in this Divorce Judgment shall be the sole responsibility of the party by whom it was incurred, and such party shall hold the other party harmless thereon, including paying for all costs and all reasonable attorneys fees incurred to compel compliance with the terms of this judgement.

A.10. INCOME TAX FILING PROVISIONS

a. For tax filing years 2019, 2020 (and 2021), the parties shall file their respective state and federal income tax returns as "Married Filing Separately". In 2019, Defendant is entitled to claim both dependents on his state and federal income tax returns. In 2020 (and 2021) Plaintiff is entitled to claim both dependents on her state and federal income tax filings. Each party is solely responsible for any liability arising from their respective filings or entitled to keep any refunds arising therefrom.

b. Starting in 2022 and every year thereafter, Plaintiff shall claim both children every year, for any and all state and federal income tax filing purposes including dependency exemption, benefit, credit, stimulus, or similar economic hardship payment, and/or deduction relating to either or both of the children.

A. 11. ATTORNEYS FEES AWARD.

The Court has considered factors such as the parties' relative earning capacity and ability to absorb the costs of litigation, Defendant's refusal to participate in the discovery process despite repeated orders by the court, Defendant's filing of numerous

documents in this action, and his appeal of the June 7, 2021 Order (Yor-21-231) that was dismissed as untimely and interlocutory. During this action, Plaintiff has incurred legal fees of \$2,500, which the court finds to be reasonable.

Judgment for Plaintiff Devan Skattum and against Defendant Brian Skattum for the sum of \$2,500. Payment shall be made within 180 days of docketing of this final judgment and funds should be paid directly to Plaintiff's counsel Jeanette Durham, Esq.

A.12. VIOLATION OF THIS JUDGMENT.

Violation of this Judgment regarding Parental Rights and Responsibilities may result in a finding of contempt and imposition of sanctions, pursuant to 19-A M.R.S.A. § 1653(7). Either parent may petition the Court for a hearing on the issue of non-compliance with this Judgment issued under 19-A M.R.S.A. § 1653(7)(A) and (B). If the Court finds that a parent has violated a part of this Judgment, the Court may find that parent in contempt and may do one or more of the following:

- A. Require additional or more specific terms and conditions consistent with the Judgment;
- B. Order that additional visitation be provided for a parent to take the place of visitation that was wrongfully denied; and,
- C. Order a parent found in contempt to pay a fine of at least \$100.00.

A.13. NAME CHANGE:

The court grants Plaintiff's good faith request to resume use of her maiden name, Devan Collomy.

A.14. DOCKET ENTRY:

The Clerk shall make the following entry in the civil docket pursuant to M.R. Civ. P. 79(a):

“Divorce granted and Judgment entered. Child Support Order entered and Child Support Worksheets filed. This Judgment and Orders are incorporated by reference into the Civil Docket by order of the Court.

DATED: November 20, 2021

/s/Matthew Tice
Judge Matthew Tice,
Maine District Court