

STATE OF MAINE
CUMBERLAND, ss.

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CUMBERLAND, SS
CLERK'S OFFICE

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-00-015

LAURINDA L. PRESBY,
n/k/a LAURINDA L. WHYLOCK,

OCT 12 4 29 PM '00

NM-CUM-10/12/2000 ✓

OCT 31 2000

Plaintiff

vs.

DECISION AND ORDER

EDMUND E. PRESBY, JR.,

DONALD L. CARBRESHT
LAW LIBRARY

Defendant

OCT 31 2000

On 2/17/00, the defendant filed his notice of appeal of the 1/14/00 order of the District Court on the defendant's motion to enforce judgment and motion for sanctions. The defendant's statement of facts, filed 3/29/00 and objected to by the plaintiff, was specifically not approved by the District Court by order dated 3/30/00. No further action with regard to a record of the District Court hearing has been provided. See M.R. Civ. P. 76F (c) & (d).

In order to determine whether the court erred in clarifying the 1992 divorce judgment and the 1995 order on defendant's motion to amend the divorce judgment, the inquiry is whether the prior orders are ambiguous and whether the court's construction of the prior orders is consistent with the language read as a whole and is objectively supported by the record. See MacDonald v. MacDonald, 582 A.2d 976, 977 (Me. 1990). That record cannot consist of parts of the record that support the defendant's argument. See, e.g., Def.'s Reply Brief at 2-3. The fact that the District Court declined to make factual findings does not obviate the need to provide a record. See Order of 3/3/00.

In their briefs on appeal, both parties reference testimony at the hearing. See, e.g., Def.'s Brief at 4-5; Pl.'s Brief at 7; Def.'s Reply Brief at 3. The appellant has the burden of providing a sufficient record to allow adequate consideration of his arguments. See Tenney v. Benson, 1999 ME 177, ¶ 1, 741 A.2d 454, 455. In the absence of any record, the court has no basis on which to determine the issues on appeal. See id.

The entry is

The Defendant's Appeal is DENIED.

The Decision of the District Court dated 1/14/00 is AFFIRMED.

Dated: October 12, 2000



Nancy Mills
Justice, Superior Court

Date Filed 02-28-00 Cumberland
County

Docket No. AP00-015

Action District Court Appeal

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PORTLAND, ME
FEB 28 2000

Laurinda Presby

Edmund Presby, Jr.

vs.

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Entry