

STATE OF MAINE

KENNEBEC, ss.

SUPERIOR COURT

CIVIL ACTION

DOCKET NO. AP-00-01

DHM-KEN-5/24/2000

KAREN A. HUME,

Appellee

v.

DECISION AND ORDER

JAMES BIALOTA, JR.,

Appellant

This matter is before the court on appellant's appeal from an order for protection issued by the District Court on October 7, 1999. A notice of appeal was filed with the court by the appellant on October 15, 1999. A briefing schedule was issued January 7, 2000, ordering the appellant's brief to be filed within 40 days after January 7, 2000. Upon a motion filed February 14, 2000, the court enlarged the time for filing appellant's brief to March 13, 2000. On that date, defendant filed a document entitled "Appellant's Brief" with no enclosures or attachments.

In appellant's filing, he requests an enlargement of time complaining that the subject matter in evidence is necessary for his defense on a criminal charge, has complained of contradictory testimony by the appellee, has complained of perjury by "prime witnesses," and seeks to "let eyewitness testimony be heard, indisputable evidence be seen, and charges of perjury" be sought against those who have committed the crime.

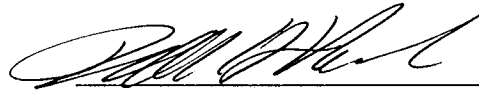
M.R. Civ. P. 76D provides that an appeal from the District Court to the Superior Court shall be on questions of law only and shall be determined by the Superior Court without jury on the record. "Any findings of fact of the District Court shall not be set aside unless clearly erroneous." M.R. Civ. P. 76D.

In his brief, appellant has not alleged any facts found by the District Court to be erroneous and has not presented any questions of law. Accordingly, the appellant has not filed a brief within the requirements of the rules and therefore has failed to properly prosecute this matter. *See* M.R. Civ. P. 76G(b).

The entry will be:

For failure to file an appropriate brief before this court or to otherwise prosecute the appeal, this appeal is DISMISSED; matter is REMANDED to the District Court.

Dated: May 28, 2000



Donald H. Marden
Justice, Superior Court

J. MARDEN

Action Appeal from District Court
Protection from Abuse

DONALD L. GARBRECHT
LAW LIBRARY

JUN 9 2000

Karen Hume

vs.

James Bialota

Plaintiff's Attorney

Robert E. Sandy, Jr., Esq.
 74 Silver Street
 P.O. Box 499
 Waterville, Maine 04903-0499

Defendant's Attorney

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24 Black Road South
 Searsport Maine 04974

Date of Entry

- 1/7/00 Appeal from Northern Kennebec District Court with all papers, filed.
- 1/7/00 Notice of briefing schedule mailed to attys of record.
- 2/14/00 Letter from James Bialota requesting Motion to Continue, filed. s/Bialota, Pro Se
(Copy in hand to Robert Sandy)
- 3/2/00 Appellees opposition to appellants motion for enlargement of time filed. s/Sandy Jr Esq
- 3/7/00 REQUEST FOR CONTINUANCE, Marden, J.
Appellant's motion is GRANTED in part. Appellant's brief must be filed no later than 3/13/00.
Copies mailed to atty and Dft.
- 3/13/00 Appellant's Brief, filed. s/Bialota.
- 5/22/00 Response of appellee, Karen Hume, to appellants brief filed. s/Sandy Esq
Proposed order on appeal filed.
- 5/25/00 DECISION AND ORDER, Marden, J.
For failure to file an appropriate brief before this court or to otherwise prosecute the appeal, this appeal is DISMISSED; matter is REMANDED to the to the District Court.
Copies mailed to atty and Dft.
Copies mailed to Deborah Firestone, Garbrecht Law Library and Goss.