

Decision: 2008 ME 169

Docket: Yor-08-293

Submitted

On Briefs: October 22, 2008

Decided: November 13, 2008

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

DANIEL A. BOGGS JR.

v.

SARAH BERTHIAUME

PER CURIAM

[¶1] Daniel A. Boggs Jr. appeals from the judgment of the District Court (Biddeford, *Foster, J.*) finding that he had failed to prove harassment and rendering judgment for the defendant on Boggs's complaint for protection from harassment. *See* 5 M.R.S. §§ 4651 to 4660-A (2007). Boggs contends that he presented sufficient evidence upon which the court should have found harassment and entered a protection from harassment order and that the court misapplied the law when it failed to do so. Boggs's brief on appeal further contests the District Court's apparent findings regarding the credibility of the witnesses at the hearing.

[¶2] Boggs does not provide an appendix in support of his appeal as required by M.R. App. P. 8(g), nor did he file a motion to waive filing an appendix pursuant to M.R. App. P. 8(k). Failure to file an appendix may result in dismissal

of an appeal or other sanction pursuant to M.R. App. P. 8(j). Additionally, Boggs provides no transcript of the hearing, or, given that the hearing appears to have been unrecorded, a statement of evidence in lieu of a transcript as provided in M.R. App. P. 5(d). *See Cates v. Donahue*, 2007 ME 38, ¶ 2, 916 A.2d 941. Without a transcript or a statement in lieu thereof, we must assume that the facts found by the court and the discretionary decisions that the court made during the course of its hearing are fully supported by the record. *See Jefts v. Dennis*, 2007 ME 129, ¶¶ 7-8, 931 A.2d 1055, 1057; *Rothstein v. Maloney*, 2002 ME 179, ¶ 11, 816 A.2d 812, 813.

[¶3] The defendant in this matter, Sarah Berthiaume, requests sanctions on appeal pursuant to M.R. App. P. 13(f). Considering that, in support of his appeal, Boggs has prevented us from conducting any review in this matter when he provided neither the required appendix nor a transcript or statement of evidence against which his claims regarding the propriety of the District Court's findings could be evaluated, we conclude that Boggs's appeal is frivolous, vexatious, and intended for harassment of the defendant and prolongation of the proceedings without any valid basis. Accordingly, we determine that imposition of sanctions pursuant to M.R. App. P. 13(f) is appropriate in this matter. *See Wooldridge v. Wooldridge*, 2008 ME 11, ¶ 13, 940 A.2d 1082, 1085.

The entry is:

Judgment affirmed. Sarah Berthiaume awarded treble costs on appeal and \$500 towards her attorney fees on appeal to be paid by Daniel A. Boggs Jr.

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