

KRISTIE L. YOUNG

v.

ROBERT J. YOUNG

Submitted on Briefs January 22, 2025
Decided February 4, 2025

Panel: MEAD, HORTON, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Robert J. Young appeals from the judgment of the District Court (Rockland, *Gorham, J.*), which denied Robert's motion to modify his spousal support obligation and found Robert in contempt for failing to comply with the divorce judgment. We affirm the judgment.

We agree with Robert's contention that in addressing a motion to modify a spousal support award arrived at by stipulation in the underlying divorce, the District Court should consider the parties' financial and other relevant circumstances at the time of the divorce in more detail than the divorce judgment may provide in order to determine whether there has been a substantial change in circumstances. *See Jewell v. Brewer*, 2024 ME 70, ¶ 12, 327 A.3d 31 (holding that "when the original divorce judgment is entered based on a settlement agreement, to determine whether there has been a substantial change in circumstances a court may need to consider the circumstances at the time of the divorce in more detail than the divorce judgment provides").

Here, however, Robert failed to introduce adequate evidence at the hearing and thus did not provide the court with foundational, baseline

information against which to measure whether a substantial change in circumstances justifying the requested modification had been demonstrated.¹ Therefore, we will not disturb the court's denial of the motion to modify because Robert, as the party with the burden of proof below, did not demonstrate on appeal that the record compelled a contrary finding.² See *Gomberg v. Gomberg*, 2015 ME 133, ¶¶ 9, 13, 125 A.3d 724 (discerning no error where the spouse seeking modification did not demonstrate on appeal that the record compelled a contrary finding that there was a substantial change in circumstances).

Furthermore, contrary to Robert's argument, we determine that the court did not err nor abuse its discretion in finding by clear and convincing evidence that Robert (i) had failed to make certain spousal support and other payments required by the divorce judgment and (ii) had an ability to comply with the judgment's requirements, thus finding him in contempt. See *Efstathiou v. Efstathiou*, 2009 ME 107, ¶ 11, 982 A.2d 339 ("For a court to find a party in contempt, the complaining party must establish by clear and convincing evidence that the alleged contemnor failed or refused to comply with a court order and presently has the ability to comply with that order.") It was undisputed that Robert failed to make the required payments. And despite his contentions, there is ample evidence in the record to support the court's finding of his ability to comply. See *Murphy v. Bartlett*, 2014 ME 13, ¶ 10, 86 A.3d 610 (holding the competent evidence, including the husband's earnings history and

¹ In the underlying divorce proceeding, both parties had prepared and filed financial statements as required by Maine Rule of Civil Procedure 108. See M.R. Civ. P. 108(c). At the post-judgment motions hearing, neither party introduced the statements in evidence. Robert argues for the first time on appeal that the motion court should have taken judicial notice of the contents of the financial statements as evidence of the parties' financial circumstances at the time of divorce. It is doubtful that such a request, even if timely made, would have been proper. See *Cabral v. L'Heureux*, 2017 ME 50, ¶ 11, 157 A.3d 795 ("A court may incorporate evidence submitted in earlier, separate proceedings by agreement of the parties, or admit pertinent *findings* made in a different proceeding if those findings meet the requirements of collateral estoppel, but it cannot, under the rubric of judicial notice, simply *sua sponte* import and rely upon evidence presented in an earlier judicial proceeding."). However, because the issue was not raised below, we do not address it. See *Warren Const. Grp., LLC v. Reis*, 2016 ME 11, ¶ 9, 130 A.3d 969 (explaining it is well settled that as a general rule "we will not reach an issue that is raised for the first time on appeal").

² Robert also argues that some of the court's factual findings related to his work, income, and other matters, are unsupported by the record. Contrary to his contentions, the record amply supports the court's factual findings concerning his capacity to meet his financial obligations.

his testimony regarding taking two trips that resulted in missing work, supported the court's finding that he had not complied with the divorce judgment).

The entry is:

Judgment affirmed.

Michelle R. King, Esq., Thistle Weaver & Morris, Portland, for appellant Robert J. Young

Christopher K. MacLean, Esq., Dirigo Law Group LLP, Camden, for appellee Kristie J. Young

Rockland District Court docket number FM-2021-99
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