

SUPREME JUDICIAL COURT OF MAINE

Mark A. Amero v. Maria C. Amero

2016 ME 150 (2016) · No. Fra-15-609 · Decided October 13, 2016

SUMMARY

The Maine Supreme Judicial Court affirmed the termination of Maria C. Amero’s spousal support based on the trial court’s finding that she was cohabiting with an adult partner under the terms of the parties’ divorce judgment. The court held that competent evidence supported the cohabitation finding and that the trial court did not abuse its discretion in terminating support.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Mead, J.; Saufley, C.J.; Alexander, J.; Gorman, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	October 13, 2016
DOCKET	Fra-15-609
DISPOSITION	affirmed
PROCEDURAL POSTURE	Maria Amero appealed from a District Court judgment terminating her prior spousal support award based on a finding that she was cohabiting with an adult partner.
STANDARD OF REVIEW	Factual findings are reviewed for clear error; the ultimate decision to modify spousal support is reviewed for abuse of discretion. When no motion for further findings is filed under Maine Rule of Civil Procedure 52(b), the appellate court assumes that the trial court made all findings necessary to support its judgment, but only to the extent supported by competent record evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Maria C. Amero v. Mark A. Amero

TOPICS

spousal support

family law

appellate procedure

standard of review

evidence

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether competent evidence supported the District Court's finding that Maria was cohabiting with an adult partner.
2. Whether the District Court abused its discretion by terminating spousal support under the cohabitation provision in the parties' divorce judgment.
3. Whether any error concerning the date cohabitation began required vacatur of the termination order.

HOLDINGS

1. The District Court's finding that Maria was cohabiting with an adult partner was not clearly erroneous because competent evidence and reasonable inferences supported a marriage-like relationship.
2. The finding of cohabitation provided a sufficient basis to terminate the spousal support award under the plain language of the parties' divorce judgment, and the District Court did not abuse its discretion.
3. Any error concerning the date cohabitation began was harmless and did not warrant vacatur because any cohabitation after entry of the divorce judgment was sufficient to trigger termination, subject to the judgment's three-year minimum.

KEY QUOTATIONS

“We review a trial court’s factual findings for clear error, which exists if “there is no competent evidence in the record to support the finding, the finding is based on a clear misapprehension by the trial court of the meaning of the evidence, or if the force and effect of the evidence, taken as a total entity, rationally persuades to a certainty that the finding is so against the great preponderance of the believable evidence that it does not represent the truth and right of the case.”” (¶ 6)

“We have defined “cohabitation” as “maintaining a relationship with another person that is the practical equivalent of marriage.”” (¶ 10)

FACTUAL BACKGROUND

Mark and Maria Amero divorced in 2006 after more than thirty years of marriage. Their divorce judgment required Mark to pay Maria \$1,100 per month in general spousal support, terminating upon Maria's remarriage or cohabitation with an adult partner, subject to a three-year minimum. Maria testified that she had an intimate relationship with an adult partner, lived with him in a truck and later in two condominiums for several years, assisted with his healthcare and household needs, and shared certain financial and domestic responsibilities. The District Court found that Maria was cohabiting with an adult partner and terminated the support award.

PROCEDURAL HISTORY

The parties divorced in 2006, and the divorce judgment awarded Maria \$1,100 per month in general spousal support, subject to termination upon remarriage or cohabitation with an adult partner after a minimum three-year

period. Mark moved to modify support in 2015, alleging cohabitation. After a testimonial hearing, the District Court found by a preponderance of the evidence that Maria had cohabited with an adult partner and terminated support. Maria timely appealed, and the Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Violette v. Violette*, 2015 ME 97, ¶ 15, 120 A.3d 667
- *McLeod v. Macul*, 2016 ME 76, ¶ 9, 139 A.3d 920
- *Pettinelli v. Yost*, 2007 ME 121, ¶ 11, 930 A.2d 1074
- *Wandishin v. Wandishin*, 2009 ME 73, ¶ 15, 976 A.2d 949
- *Charette v. Charette*, 2013 ME 4, ¶ 10, 60 A.3d 1264
- *Efstathiou v. Efstathiou*, 2009 ME 107, ¶ 12, 982 A.2d 339
- *Pelletier v. Pelletier*, 2012 ME 15, ¶ 13, 36 A.3d 903