

## **APPENDIX**

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MAINE SUPREME JUDICIAL COURT

Reporter of Decisions  
Decision No. Mem 23-55  
Docket No. Lin-22-354

EMMA R. SOLORZANO

v.

CODY A. CRAIG

Submitted on Briefs April 19, 2023

Decided April 27, 2023

Panel: STANFILL, C.J., and MEAD, HORTON, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Cody A. Craig appeals from a divorce judgment entered by the District Court (Wiscasset, *Martin, J.*) allocating primary residence of the parties' child and sole parental rights and responsibilities to Emma R. Solorzano but allowing Craig rights of contact. The court did not, as Craig contends, commit obvious error, in violation of the Free Exercise Clause of the First Amendment to the United States Constitution,<sup>1</sup>

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<sup>1</sup> Although we ordinarily apply the primacy approach by interpreting the Maine Constitution first and considering corresponding federal constitutional provisions only if the Maine Constitution does not settle the issue, *see State v. Moore*, 2023 ME 18, ¶

by allocating parental rights and responsibilities in a way that will ensure that the child is safe from the danger posed not by Craig’s religious beliefs but by his controlling and abusive behavior. *See In re Anthony R.*, 2010 ME 4, ¶ 9, 987 A.2d 532; 19-A M.R.S. § 1653(3), (6) (2022);<sup>2</sup> *cf. Osier v. Osier*, 410 A.2d 1027, 1029 (Me. 1980) (encouraging courts to, when possible, determine a child’s best interest in allocating parental rights without considering either parent’s religious practices). Nor did the court err in considering Craig’s mental health—even in the absence of a diagnosis—given the competent evidence in the record of Craig’s unusual behavior and his admission to Solorzano that he thought he might be diagnosed with a psychological disorder if evaluated. *See Proctor v. Childs*, 2023 ME 6, ¶ 6, 288 A.3d 815.

The entry is:

Judgment affirmed.

Carl E. Woock, Esq., and Stephen C. Smith, Esq.,  
Steve Smith Trial Lawyers, Augusta, for appellant  
Cody A. Craig

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17, 290 A.3d 533, Craig mentioned the state constitution only in a cursory manner in a footnote, *see State v. Lepenn*, 2023 ME 22, ¶ 1 n.3, --- A.3d---, and “considerations of judicial restraint” caution us to refrain from deciding important state constitutional questions without proper briefing and argument, *State v. Philbrick*, 481 A.2d 488, 493 n.3 (Me. 1984).

<sup>2</sup> Section 1653(3) was amended after the judgment was entered in this case. *See* P.L. 2021, ch. 647, § B-46 (effective Jan. 1, 2023) (codified at 19-A M.R.S. § 1653(3)(O) (2023)). The amendment is not pertinent in this matter, and we cite the version of the statute in effect at the time of the judgment.

Eric B. Morse, Esq., Strout & Payson, P.A., Rockland,  
for appellee Emma R. Solorzano

Wiscasset District Court docket number FM-2021-174  
FOR CLERK REFERENCE ONLY

STATE OF MAINE  
LINCOLN, ss.

DISTRICT COURT  
LOCATION: WISCASSET  
DOCKET NO.: FM-21-174

EMMA R. SOLORZANO, )  
)  
Plaintiff, )  
)  
v. )  
)  
CODY A. CRAIG, )  
)  
Defendant. )

DIVORCE JUDGMENT

Notice of the pendency of this action for divorce has been duly and seasonably given according to Maine law. A hearing was conducted on September 19, 2022. Plaintiff was present and represented by Attorney Eric B. Morse, Esq. Defendant was present and represented by Attorney Ronald W. Bourget., Esq. The Court has carefully considered the evidence presented and hereby renders its Divorce Judgment.

Plaintiff and Defendant are each granted a divorce from the other on the ground of irreconcilable differences.

The Court issues the following findings and conclusions:

## FINDINGS OF FACT

Both parties are lifetime residents of Maine. The parties met in high school in 2017 and were later married in Augusta, Maine, on December 26, 2018, just weeks before Defendant's deployment in the Air Force. The parties are the biological parents of K██████████, born ██████████. Just prior to the parties' marriage, Defendant was residing in New Mexico waiting for paperwork for deployment to Germany. Once deployed, Plaintiff did not move with Defendant immediately, but rather resided with Defendant's parents until she moved to Germany in June of 2019. The parties lived in Germany together from June 2019 until the birth of their daughter K██████████, in January of 2021. Prior to K██████████'s birth, Plaintiff moved back to Maine where she resided with her parents. Shortly thereafter, Defendant moved in with Plaintiff and her parents until the parties moved to Auburn, Maine, where Defendant continues to reside.

Plaintiff describes most of the relationship as Defendant being both mentally and physically abusive, progressively growing worse over time. While Plaintiff had concerns about Defendant's behaviors prior to their marriage, she brushed those off as insignificant at the time. Not long after their marriage, however, Defendant's behaviors became more controlling, berating and physical. Plaintiff explained it as Defendant having control over her life and her body; she had no say in anything or choices in her beliefs or what she could wear; could not go to her church; and had no vehicle or access to money.

On several occasions, Defendant pinned Plaintiff to the ground or the bed, called her a bitch and a cunt and became increasingly more controlling over what she wore, where she went, and what she could do. Threats became consistently worse and more frequent. Defendant would say things like, “I want to be hitting you know, I want to punch you.” On other occasions, Defendant would suggest killing Plaintiff. Defendant went as far as telling others that “if [Plaintiff] died tomorrow 100% of [his] issues would disappear.”<sup>1</sup>

Defendant’s perception of Plaintiff’s role in their marriage is nothing less than troubling. In his own words, Plaintiff is good only if she submits to both God and Defendant, suggesting that “there’s no in between.”<sup>2</sup> Defendant believes in a hierarchy in the parties’ marriage, where the Defendant has a lesser status than Defendant and insistent that she be dependent on him to be considered good or godly. The Court finds that this has caused severe isolation for the Plaintiff. Plaintiff’s mother testified that at one time prior to the marriage, Plaintiff was “assertive and well spoken, fierce but bold, tiny but mighty.” After her marriage to Defendant, there was a tremendous change in her demeanor over time. Often family would witness a soft childlike voice when talking to Defendant. She also lost a lot of weight. Upon her return from Germany, she weighed 80 pounds. At present, she weighs 106 pounds. Defendant has called Plaintiff a sociopath and hard to control. The Defendant explains that this hierarchy is his belief as a Greek Orthodox.

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<sup>1</sup> See, Plaintiff’s Exhibit 7, p. 73.

<sup>2</sup> See, Plaintiff’s Exhibit 6, p. 70.



The Court recognizes and respects Defendant's right to his own religious beliefs. The Court will not, however, allow Defendant's controlling and abusive behaviors to be hidden behind the mask of faith. It is Defendant's behavior, not his belief, that this Court cannot abide. Such behaviors support the Court's finding of Defendant's continued and overwhelming control over Plaintiff.

The Court also finds that Defendant has significant untreated mental health issues. There is ample record evidence of Defendant having conversations with himself, sometimes up to 10 different voices. Defendant corroborated this evidence during his testimony. In fact, Defendant admitted that these voices are his "inter-monologue" and started some time ago. The Defendant explained that he often disassociates and talks to himself or his inter-monologue and, while it may be other voices he hears, it's actually him talking to himself. Defendant acknowledged that he has an alter ego in his conscious and talks to them to help figure things out. Others have witnessed Defendant's behaviors as well. While the Defendant's explanation is that he picked this up during wrestling in order to muster courage before a meet, the Court finds this testimony incredible.

Defendant's controlling behaviors and his untreated mental health raise further concerns regarding K [REDACTED]'s safety. After K [REDACTED] was born in January 2021, the parties resided together with K [REDACTED] for only 5 months prior to Plaintiff filing for divorce and moving out. The Court finds that during that time, Defendant placed K [REDACTED] in jeopardy

more than once. On several occasions, during K [REDACTED] [REDACTED]'s first 5 months of her life, Plaintiff would see Defendant put his hand over K [REDACTED] [REDACTED]'s mouth to stop her from crying. Defendant denied this and offered an explanation that he was only trying to help with K [REDACTED] [REDACTED]'s teething. The Court finds this explanation incredible. Except for two occasions, Plaintiff did not leave K [REDACTED] [REDACTED] alone with Defendant. The Court finds that Defendant has significant mental health issues and if left untreated, the Court has tremendous concerns for K [REDACTED] [REDACTED]'s safety if left in Defendant's care without proper supervision.

The Court has considered the factors found in 19-A M.R.S. § 1653 applicable to this case and hereby **ORDERS** the following:

PARENTAL RIGHTS AND RESPONSIBILITIES

The parties have one (1) minor child born of their marriage whose name and date of birth are as follows:

K [REDACTED] [REDACTED] DOB, [REDACTED] [REDACTED].

In accordance with Title 19-A, M.R.S.A. §1653, it is **ORDERED** that the Plaintiff shall have **SOLE PARENTAL RIGHTS AND RESPONSIBILITIES** of K [REDACTED] [REDACTED]. "*Sole Parental Rights and Responsibilities*" means that one parent is granted exclusive parental rights and responsibilities with respect to all aspects of the child's welfare.

**PRIMARY RESIDENCE** of K [REDACTED] shall be awarded to Plaintiff.

The Defendant is allocated reasonable rights of contact to visit with and be visited by K [REDACTED] as follows:

Supervised parent-child contact at Home Counselors, Inc., two (2) times per week for 2 hours each visit. Any other contact shall be at the Plaintiff's discretion. The Court finds that this contact schedule has been in place since the parties' interim order. The Court also finds that Defendant and K [REDACTED] have a parent/ child bond and that visits go well between the two. The Court finds that without further treatment, these provisions are adequate for K [REDACTED]'s safety. *See*, 19-A M.R.S. § 1653(6)(A).

The Court further **ORDERS** Defendant to enroll and engage in a certified batterers intervention program ("CBIP") and a psychological evaluation, and to engage in any recommendations from that evaluator. Engagement in these services may provide a substantial change in circumstances that may support a modification in Defendant's rights of contact.

The Court takes Judicial Notice of the parties' protection from abuse order in Wiscasset Docket, WISDC-PA-21-152. That matter was consolidated with this docket in order to make a final disposition as to contact between Defendant and K [REDACTED]. To that end, the Court has amended the parties' protection order consistent with the Court's disposition in the parties' final Divorce Judgment.

### TAX EXEMPTION

Plaintiff shall be entitled from this day forward to claim the minor child as dependent for Federal and State income tax purposes.

### ACCESS TO CHILDREN'S RECORDS

Both parties shall have equal and unrestricted access to the children's records, including, but not limited to, medical, dental and school records, whether or not the children reside with the parent seeking such records and information.

### NOTICE REGARDING RELOCATION

A parent who intends to relocate the residence of a child subject to this Order must provide the other parent prior notice at least 30 days before the intended relocation. If the relocation must occur in less than 30 days, the parent who is relocating shall provide notice as soon as possible to the other parent. If the parent who is relocating believes notifying the other parent will cause danger to the relocating parent or the children, the parent shall notify the District Court of the intended relocation, and the District Court shall provide appropriate notice of the other parent in a manner determined to provide safety to the relocating parent and children.

### CHILD SUPPORT

The parties agreed that Defendant would begin payment of weekly child support in the amount of

\$200.00 beginning March 4, 2022, pending confirmation of childcare costs.<sup>3</sup> The Court finds that Plaintiff pays childcare costs in the weekly amount of \$150.00.

The Court has made certain findings regarding the parties' incomes and Parental Support Obligation set forth in the **CHILD SUPPORT WORKSHEET** which are incorporated herein. The attached **CHILD SUPPORT ORDER** is also incorporated herein in its entirety. The Court finds Plaintiff's annual income to be \$33,000.00. The Court finds that Defendant's annual income to be \$34,515.00. The Court's determination is based on the parties' child support affidavits filed with the Court and the parties' testimony. The Court hereby **ORDERS** Defendant to pay the Plaintiff child support in the amount of \$183.00 per week beginning September 23, 2022.

#### VIOLATIONS REGARDING PARENTAL RIGHTS AND RESPONSIBILITIES

Each parent is cautioned that a violation of any of the provisions concerning his/her parental rights and responsibilities set forth in the foregoing paragraphs may result in a finding of contempt and sanctions which could include additional terms and conditions governing parental rights and responsibilities, additional visitation and fines of at least \$100.

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<sup>3</sup> Interim Child Support Order, 03/04/2002, p. 2, ¶ 10.

## SPOUSAL SUPPORT

Neither party shall pay spousal support, now or in the future.

## COUNSEL FEES AND COSTS

Each party shall be responsible for the payment of his or her counsel fees and costs.

## MARITAL PROPERTY

The Court finds that the parties' have limited marital assets. Except as otherwise set forth in this Judgment, each party has in his or her respective possession the remaining personal property each wants. Accordingly, such remaining personal property is set aside and awarded to the party in whose possession such property reposed on the date of the hearing, set forth above, and such party shall be solely responsible for any indebtedness thereon and shall indemnify and hold Plaintiff harmless therefrom.

The parties' 2015 VW Passat shall be set aside to Defendant as his sole property. The Court finds this to be marital property and the value of this vehicle to be \$7,800.00.<sup>4</sup> There is no mortgage encumbering the vehicle. Accordingly, Defendant shall pay Plaintiff \$3,900.00 to buy out her equitable interest in the vehicle, execution to issue. The Defendant shall be solely

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<sup>4</sup> See, Plaintiffs Exhibit 10, p. 92. Defendant acknowledges the value of the property to be \$7,800.00.

responsible for any indebtedness thereon and shall indemnify and hold Plaintiff harmless therefrom.

### RETIREMENT/FINANCIAL ACCOUNTS

Each party shall retain all financial and retirement accounts in their respective name as their sole property. Accordingly, Defendant shall retain the parties' USAA checking and Service Credit Union accounts totaling \$4,190.15 as his sole property. Defendant shall also retain the marital Thrift Savings (TSP) IRA with a value of \$9,656.41. Both accounts are to be divided equally. Regarding the bank accounts above, Defendant shall pay Plaintiff \$2,095.00 within 14 days from the date of this Judgment, execution to issue. Regarding the Thrift Savings IRA, Defendant shall affect the transfer of  $\frac{1}{2}$  of its value (or \$4,828.00) to Plaintiff within 60 days from the date of this Judgment.

Any other joint bank accounts belonging to the parties shall be closed or transferred to the sole name of one of the parties, as shall any and all jointly held credit cards or accounts in which one or the other party is an "additional cardholder." The parties shall cooperate with each other and coordinate their efforts in closing and/ or transferring the jointly held bank and credit card accounts, and no accounts shall be closed by either party without prior notice to the other party.

## MARITAL DEBTS

Each party is solely responsible for all debts in their respective names not specifically referenced elsewhere in this Judgment. Each party shall hold the other party harmless on all respective debts and provide indemnification if necessary. To the extent that these provisions are violated, the party found in violation shall be responsible for the other's reasonable attorney's fees and costs incurred in connection with the enforcement of this section.

## MARITAL REAL ESTATE

The Court finds that there is no marital real estate to divide.

## NAME CHANGE

Neither party is requesting a name change.

Pursuant to M.R. Civ. P. 79(a), the Clerk is directed to enter this Divorce Judgment on the Civil Docket by a notation incorporating it by reference.

Dated: October 6, 2022

Hon. John Wm. Martin  
Judge, Maine District Court

*[Child Support Worksheet excluded.]*