

SHAWN G. WAITE

v.

SHA-LENE P. WAITE

Submitted on Briefs October 21, 2010
Decided November 2, 2010

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

MEMORANDUM OF DECISION

Sha-Lene P. Waite appeals from a judgment of the District Court (South Paris, *Driscoll, J.*) granting Shawn G. Waite's motion for contempt against her for failing to obey certain rights of contact and visitation provisions of a prior judgment. Sha-Lene makes several arguments in support of her contention that the court's judgment should be vacated, including an argument based on the fact that Sha-Lene had timely requested, in writing, that the contempt hearing be recorded, and that the hearing was not electronically recorded in violation of M.R. Civ. P. 76H (a), (c), thereby diminishing her ability to bring an effective appeal.

Although we agree that there was no recording, despite the request, we must affirm the judgment of contempt. An appellant bears the burden of providing us with a record that is adequate for review, and when an appellant challenges a court's factual findings or exercise of discretion, as in this case, the appellant must provide a transcript of the proceedings, if available, or a court-approved and settled statement of the evidence pursuant to M.R. App. P. 5(d). *Springer v. Springer*, 2009 ME 118, ¶¶ 2-7, 984 A.2d 828, 829-30; *see also Pratt v. Spaulding*, 2003 ME 56, ¶ 10, 822 A.2d 1183, 1186 (stating the standard of review of a civil contempt judgment). This rule applies even when a party requested that a hearing be

recorded and inexplicably it was not recorded. *See Springer*, 2009 ME 118, ¶¶ 1 n.1, 4, 6, 8, 984 A.2d at 829, 830.

Sha-Lene did not provide a timely statement of the evidence on appeal in accordance with M.R. App. P. 5(d). As a result, we are “bound to accept the court’s factual findings and to assume that they are supported by sufficient competent evidence in the record,” and as such, we affirm the court’s judgment. *See id.* ¶¶ 1, 8, 984 A.2d at 829, 830; *see also Edwards v. Campbell*, 2008 ME 173, ¶ 10, 960 A.2d 324, 327 (affirming the court’s judgment of civil contempt because the appellant provided neither a transcript nor a statement pursuant to M.R. App. 5(d) and this Court did not have an adequate record for appellate review).

The entry is:

Judgment affirmed.

Sha-Lene P. Waite, pro se:

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Shawn G. Waite did not file a brief.