

BONITA C. VALLS

v.

NICHOLAS VALLS

Submitted on Briefs February 26, 2013

Decided February 28, 2013

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Nicholas Valls appeals from the contempt judgment entered by the District Court (Biddeford, *Douglas, J.*) holding him in contempt for violating a settlement agreement. On appeal, Nicholas asserts that the trial court abused its discretion by holding him in contempt, arguing that the settlement agreement was ambiguous and he substantially complied. *Ames v. Ames*, 2003 ME 60, ¶ 22, 822 A.2d 1201 (noting that a judgment granting a motion for contempt is reviewed for an abuse of discretion). The settlement agreement unambiguously required Nicholas to set up a separate education fund for his children upon entry of the final divorce judgment. *Blanchard v. Sawyer*, 2001 ME 18, ¶ 4, 769 A.2d 841. Additionally, although Nicholas provided money for his oldest son's college education he had not complied with the legal obligations set forth in the settlement agreement, despite his ability to comply. M.R. Civ. P. 66(d)(2)(D) (allowing a finding of contempt if the contemnor failed to perform a required act that was within the contemnor's power to perform); *see also Ault v. Pakulski*, 520 A.2d 703, 705 (Me. 1987) (distinguishing between moral and legal obligations regarding the funding of children's education). Therefore, the trial court properly held him in contempt.

The entry is:

Judgment affirmed.

On the briefs:

Scott D. Giese, Esq., Law Offices of Scott Giese, Esq., Biddeford, for
appellant Nicholas Valls

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P.A., Biddeford, for appellee Bonita C. Valls