

MARIE E. THOMAS

v.

LOUIS B. MAIETTA

Argued April 7, 2016
Decided May 3, 2016

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

MEMORANDUM OF DECISION

Marie E. Thomas¹ appeals from a judgment of the District Court (Portland, *Eggert, J.*) denying her motion for contempt, M.R. Civ. P. 66, against Louis B. Maietta. The contempt action was a continuation of Thomas's efforts to collect on judgments against Maietta obtained in 2007 and 2010. In 2012, as part of the collection effort, the parties agreed to a charging order granting Thomas the right to any distributions to which Maietta would otherwise be entitled from three limited liability corporations. The contempt action and a separate disclosure proceeding, 14 M.R.S. §§ 3120-3128 (2015), were initiated in 2015, alleging violation of the 2012 charging order.

After a combined hearing that developed a substantial record, the court found in the disclosure proceeding that Maietta had the ability to pay and ordered him to pay a small lump sum and \$150 per month toward satisfaction of the judgments. Separately, the court found that Thomas had failed to prove the

¹ During the course of this litigation, Thomas died in May 2014. Her interest in several prior judgments was assigned to Steven Candors as trustee for the Thomas Family Trust. Candors, in his capacity as assignee, is continuing the litigation in Thomas's name.

elements of the contempt claim and denied the motion for contempt. Thomas did not appeal the disclosure decision. Thomas has appealed the contempt decision, contending that (1) the court was compelled to find the elements of contempt proven and (2) the court erred in denying Thomas's motion to amend its findings and conclusions.

“A party moving for a contempt order must prove ‘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.’” *Beckerman v. Pooler*, 2015 ME 80, ¶ 7, 119 A.3d 74 (quoting *Waltz v. Waltz*, 2013 ME 1, ¶ 6, 58 A.3d 1127); see M.R. Civ. P. 66(d)(2)(D). To prevail on this appeal, Thomas must demonstrate that the contempt finding sought “was compelled by the evidence.” *Beckerman*, 2015 ME 80, ¶ 7, 119 A.3d 74.

We respect the trial court's capacity to decide the credibility and significance of the evidence and the inferences to be drawn or not drawn from the evidence. See *Stickney v. City of Saco*, 2001 ME 69, ¶ 13, 770 A.2d 592; *Sturtevant v. Town of Winthrop*, 1999 ME 84, ¶ 9, 732 A.2d 264. The record here does not compel a finding that the elements of contempt were proven by clear and convincing evidence. Because the finding that Thomas had failed to meet the requisite burden of proof did not require any greater explanation than was given by the trial court, the court did not err in denying Thomas's motion to amend. See *Wandishin v. Wandishin*, 2009 ME 73, ¶ 19, 976 A.2d 949.

The entry is:

Judgment affirmed.

On the briefs:

Marshall J. Tinkle, Esq., Hirshon Law Group, PC, Portland, for appellant Marie E. Thomas

Jennifer A. Archer, Esq., and Timothy H. Norton, Esq., Kelly Rimmel & Zimmerman, Portland, for appellee Louis B. Maietta

At oral argument:

Marshall J. Tinkle, Esq., for appellant Marie E. Thomas

Jennifer A. Archer, Esq., for appellee Louis B. Maietta

Portland District Court docket number SA-2010-1616

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