

NICHOLAS A. GLADU

v.

STATE OF MAINE

Argued September 7, 2021  
Decided September 14, 2021

Panel: STANFILL, C.J., and MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and  
CONNORS, JJ.

#### MEMORANDUM OF DECISION

Nicholas A. Gladu appeals from a judgment of the trial court (Cumberland County, *Warren, J.*) summarily finding him to be in contempt and imposing a sanction of ten days' imprisonment. M.R.U. Crim. P. 42; M.R. Civ. P. 66(b). Contrary to Gladu's contention, the court's findings were sufficient to establish that he engaged in behavior qualifying as "disorderly conduct, insolent behavior . . . or action which . . . diminishes the court's authority." M.R. Civ. P. 66(a)(2)(A)(i).

Furthermore, Gladu's conduct occurred during a formal court proceeding and the court needed no evidence to make its summary contempt finding beyond Gladu's obscene declarations directed at the court that it heard firsthand. We conclude that in that circumstance the Rule's requirement that the contemptuous conduct occur "in the actual presence of the court" was satisfied, notwithstanding that pandemic restrictions necessitated that the hearing be conducted by video. M.R. Civ. P. 66(b)(1); *see State v. Gaston*, 2021 ME 25, ¶¶ 30-32, 250 A.3d 137 (recognizing that video proceedings necessitated by the pandemic may be held without violating a defendant's

rights); *Pounders v. Watson*, 521 U.S. 982, 988 (1997) (stating that summary contempt procedure is appropriate for “charges of misconduct, in open court, in the presence of the judge, which disturbs the court’s business, where all of the essential elements of the misconduct are under the eye of the court [and] are actually observed by the court” (quotation marks omitted)); *Amoresano v. Laufgas*, 796 A.2d 164, 175 (N.J. 2002) (“[D]irect contempt, or contempt in the face of the court, is conduct that a judge can determine through his own senses is offensive and that tends to obstruct the administration of justice.” (quotation marks omitted)); *In re Finding of Contempt in State v. Kruse*, 533 N.W.2d 819, 824 (Wis. 1995) (“actual presence must be determined in light of the factual setting surrounding the contumacious conduct”).

The entry is:

Judgment affirmed.

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James M. Mason, Esq. (orally), Handelman & Mason LLC, Brunswick, and Nicholas A. Gladu, pro se, for appellant Nicholas A. Gladu

Jonathan Sahrbeck, District Attorney, and Jennifer Ackerman, Dep. Dist. Atty. (orally), Office of the Cumberland County District Attorney, Portland, for appellant State of Maine