

CITY OF BANGOR

v.

JOHN HUSEK

Submitted on Briefs September 25, 2003
Decided September 30, 2003

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
and, CALKINS, JJ.

MEMORANDUM OF DECISION

John Husek appeals¹ from a judgment of contempt entered in the District Court (Bangor, *Gunther, J.*) after he failed to clear his yard of assorted debris and materials as ordered by the court (*Russell, J.*) in its July 19, 2002, order. Contrary to his contention, the court had subject matter jurisdiction pursuant to 4 M.R.S.A. § 152(6-A)(G) (Supp. 2002) to issue the July 19 order. Moreover, the court's February 3, 2003, contempt order did not violate Husek's right to due process. The

¹ The City has asserted that Husek's appeal is untimely; however, the record reveals that Husek timely filed his notice of appeal on February 26, 2003, the twenty-first day after the February 5, 2003, entry of the court's judgment. See M.R. App. P. 2(b)(1), (3).

record establishes that he was properly served in hand with a subpoena for the contempt hearing, which, as required by M.R. Civ. P. 66(d)(2)(B), advised him that upon a finding of contempt, “the Court may impose sanctions against you that may include fines or imprisonment, or both.” Because he had notice of the potential for imprisonment, any failure by the City to serve Husek with a draft order prior to the contempt hearing did not compromise his right to due process. *See Splude v. Dugan*, 2003 ME 88, ¶ 6, 828 A.2d 772, 775 (explaining that because civil contempt proceedings are coercive and avoidable through compliance, the Constitution requires notice and the opportunity to be heard before sanctions may be imposed).

The entry is:

Judgment affirmed.

Attorney for plaintiff:

John K. Hamer, Esq.
Legal Department
City Hall
73 Harlow Street
Bangor, ME 04401

For defendant:

John Husek
18 Eighteenth Street
Bangor, ME 04401