

THERESA PUSHARD

v.

GARY PUSHARD

Argued November 3, 2004
Decided November 30, 2004

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

MEMORANDUM OF DECISION

Gary Pushard appeals from a judgment of the District Court (Lewiston, *Beliveau, J.*) finding him in contempt for failure to comply with a child support order and imposing a thirty-day jail sentence, suspended, as an incentive for continued payment of arrearages for past due child support. Pushard asserts that there is insufficient evidence to establish his present ability to pay and that the suspended thirty-day jail sentence was not reasonable. The record supports the trial court's finding that imputed an annual earning capacity of \$37,000 to Pushard and, consequently, the finding that he had a present ability to pay. *See Koszegi v.*

Erickson, 2004 ME 113, ¶ 14, 855 A.2d 1168, 1171. With these findings made, the court did not exceed the bounds of its discretion in its selection of a sanction which provided a continuing incentive for payment. *See Town of Carmel v. McSorley*, 2002 ME 33, ¶¶ 9-10, 791 A.2d 102, 106.

The entry is:

Judgment affirmed.

Plaintiff did not file a brief.

Attorneys for defendant:

Ryan Lovell, Student Attorney
Benjamin J. Smith, Student Attorney
Valerie Stanfill, Esq.
Cumberland Legal Aid Clinic
246 Deering Avenue
Portland, ME 04102

Attorneys for party-in-interest Department of Health and Human Services:

G. Steven Rowe, Attorney General
E. Mary Kelly, Asst. Atty. General
Kelly Turner, Asst. Atty. General
6 State House Station
Augusta, ME 04333-0006