

DIANNE W. WILEY

v.

THOMAS J. WILEY

Submitted on Briefs November 16, 2004

Decided November 30, 2004

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

MEMORANDUM OF DECISION

Thomas J. Wiley appeals from a judgment of the District Court (Biddeford, *Janelle, J.*) finding the elements of contempt not proven by clear and convincing evidence and denying his motion for contempt. He contends that the evidence was sufficient to find Dianne W. Wiley in contempt for limiting his access to his children and failing to properly involve him in parental decision-making. He also asserts that Dianne Wiley filed improper attachments to her brief.

Although other post-divorce judgment motions remained pending, the ruling on the contempt motion is properly before us on appeal, as all issues relating to the contempt motion have been resolved. We do not consider the additional materials filed with Dianne Wiley's brief, as these materials were not before the trial court

during consideration of the contempt motion. *See Bradstreet v. Bradstreet*, 2004 ME 5, ¶ 3, 840 A.2d 105, 106. A party with the burden of proof who asserts that the trial court should have reached a different result in its factual determinations may prevail only if the record “demonstrates that a contrary finding is compelled by the evidence.” *Westleigh v. Conger*, 2000 ME 134, ¶ 12, 755 A.2d 518, 520. Here, the record does not compel a contrary finding and supports the decision of the District Court on the motion for contempt. *See Wrenn v. Lewis*, 2003 ME 29, ¶ 26, 818 A.2d 1005, 1012.

The entry is:

Judgment affirmed.

Attorney for plaintiff:

Dana E. Prescott, Esq.
Prescott Lemoine Jamieson & Nelson, LLC
P O Box 1190
Saco, ME 04072

Attorney for defendant:

Gregory O. McCullough, Esq.
P O Box 910
Sanford, ME 04073-0910