

ROSEMARY A. (MORSE) DELMONICO

v.

CLARENCE RICHARD MORSE

Submitted on Briefs May 12, 2006
Decided May 19, 2006

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, CALKINS, LEVY, and
SILVER, JJ.

MEMORANDUM OF DECISION

Clarence Richard Morse appeals from a judgment entered in the District Court (Rockland, *Anderson, J.*), granting his motion to modify his spousal support obligation and finding him in contempt and ordering his commitment as a sanction should he continue to fail to pay spousal support to Rosemary A. (Morse) Delmonico. Contrary to Morse's contentions, the court did not err or exceed the bounds of its discretion when it modified, though it did not eliminate, his spousal support obligation. *See Melanson v. Matheson*, 1998 ME 117, ¶ 6, 711 A.2d 147, 148; *Hale v. Hale*, 604 A.2d 38, 41 (Me. 1992). Additionally, the

record supports the court's findings, by clear and convincing evidence, of contempt and Morse's ability to comply with the requirements of the amended divorce judgment. *See Ames v. Ames*, 2003 ME 60, ¶ 24, 822 A.2d 1201, 1208; *Pratt v. Spaulding*, 2003 ME 56, ¶ 13, 822 A.2d 1183, 1187. Finally, given this record support for the court's findings of contempt and present ability to pay, any error made by the court concerning its statement that MRIs and other tests have not been completed is harmless. *See* M.R. Civ. P. 61; *Howe v. Banks*, 566 A.2d 747, 748 (Me. 1989) (clear error in court's factual findings held harmless when the evidence viewed as a whole supported the judgment).

The entry is:

Judgment affirmed.

Attorney for plaintiff:

Robert J. Rubin, Esq.
Rubin & Strout, P.A.
480 West Sreet
Rockport, ME 04856

Attorney for defendant:

James W. Strong, Esq.
P.O. Box 56
Thomaston, ME 04861