

TOWN OF TURNER

v.

WILLIAM WHITMAN

Submitted on Briefs December 20, 2006

Decided January 4, 2007

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

MEMORANDUM OF DECISION

William Whitman appeals from a judgment entered in Superior Court (Androscoggin County, *Gorman, J.*) finding that Whitman has maintained an automobile graveyard and a junkyard on his property in violation of the Town of Turner's ordinance and in violation of 30-A M.R.S. § 3753 (2005). There is competent evidence in the record to support the court's findings that Whitman did not have a valid home occupation permit and that Whitman failed to establish that he used his land for agricultural purposes. *See Pratt v. Spaulding*, 2003 ME 56, ¶ 10, 822 A.2d 1183, 1186. Contrary to Whitman's contentions, we previously held in *Town of Pownal v. Emerson* that the automobile graveyard and junkyard

statute is not unconstitutionally vague. 639 A.2d 619, 621 (Me. 1994). Because Whitman has offered no facts or evidence that the Town's prosecution of his automobile graveyard and junkyard had a discriminatory effect or was motivated by a discriminatory purpose, he fails to establish that the statute was unconstitutional as applied to him. *See Polk v. Town of Lubec*, 2000 ME 152, ¶ 14, 756 A.2d 510, 513. The court correctly applied 30-A M.R.S. §§ 3758-A(3), 4452(3) (2005) in imposing a penalty on Whitman, and did not abuse its discretion in awarding attorney fees pursuant to 30-A M.R.S. § 4452(3)(D) (2005).

The entry is:

Judgment affirmed.

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