

TOWN OF TRENTON

v.

PAMELA MORRISON COLBY

Submitted on Briefs December 11, 2007
Decided January 22, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, MEAD, and
GORMAN, JJ.

MEMORANDUM OF DECISION

The Town of Trenton appeals from a judgment entered in the District Court (Ellsworth, *Staples, J.*) finding that the Town failed to prove that Pamela Morrison Colby violated Maine's Junkyards and Automobile Graveyards statute, 30-A M.R.S. §§ 3751-3760 (2007). Contrary to the Town's contention, the court was not required ultimately to find a violation of the statute after denying Colby's motion for judgment as a matter of law at the close of the Town's evidence. *See* M.R. Civ. P. 50(d) (providing that in a nonjury case the court may either grant a

motion for judgment as a matter of law or decline to enter judgment until the close of all the evidence).

In addition, the court did not err in finding that the only evidence of a violation was the code enforcement officer's testimony and in concluding that this evidence did not meet the Town's burden of proving a violation. *See Dionne v. LeClerc*, 2006 ME 34, ¶ 15, 896 A.2d 923, 929 (providing that the court may disbelieve the testimony of witnesses at trial even if uncontradicted and determines the weight to be given such testimony).

The entry is:

Judgment affirmed.

Attorney for the appellant:

William B. Devoe, Esq.
Eaton Peabody
80 Exchange Street
PO Box 1210
Bangor, Maine 04402-1210

Attorney for the appellee:

Jeffrey C. Toothaker, Esq.
Toothaker & Chong
14 High Street
Ellsworth, Maine 04605