

TIMOTHY W. KILROY

v.

JANICE A. KILROY

Argued November 18, 2008

Decided January 6, 2009

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

MEMORANDUM OF DECISION

Timothy W. Kilroy appeals from a judgment of contempt entered in the District Court (Bangor, *A. Murray, C.J.*). Timothy asserts that the court erred in failing to appoint an attorney to defend him in this civil contempt proceeding because he faces imprisonment as a sanction for contempt and because of his physical disability. He also contends that the court erred in finding him in contempt by clear and convincing evidence.

Because Timothy was represented by a privately-retained attorney before the District Court and was furnished an attorney on appeal at the direction of the Law Court, Timothy presents no constitutional error requiring reversal, and we need not determine whether an indigent defendant has a constitutional right to appointed counsel in a civil contempt proceeding. *See In re Scott S.*, 2001 ME 114, ¶¶ 26-27, 31 n.18, 775 A.2d 1144, 1153-54; *State v. Burdick*, 2001 ME 143, ¶ 27, 782 A.2d 319, 327-28. In addition, because Timothy presented no facts showing that his disability required the appointment of counsel as a reasonable accommodation, he was not entitled to such counsel because of his disability. *See Scott v. Androscoggin County Jail*, 2004 ME 143, ¶¶ 19, 25, 866 A.2d 88, 93-94, 95. Finally, based on the record and in accordance with the standard of clear and convincing evidence, the court could have reasonably been persuaded that the

required factual findings necessary to find Timothy in contempt were highly probable. *In re Charles G.*, 2001 ME 3, ¶ 5, 763 A.2d 1163, 1165-66.

The entry is:

Judgment affirmed.

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