

ANDREW F. ANTONIUK et al.

v.

ROBERTA A. GOLDEN

Submitted on Briefs April 30, 2009

Decided May 28, 2009

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

Roberta A. Golden appeals from a judgment of contempt and a declaratory judgment entered in the Superior Court (York County, *Fritzsche, J.*) in this action arising from disputed claims concerning a right-of-way. Andrew F. Antoniuk and Rockmere Lodge (hereinafter Antoniuk) cross-appeal from the court's decision to dismiss their motion for summary judgment as moot, in which they argued that Golden's counterclaims of overburdening the right-of-way and interference with her view easement were barred by the applicable statute of limitations.

Contrary to Golden's contentions, the court did not abuse its discretion when it found Golden in contempt and imposed a fine against her and an indeterminate period of incarceration. *See State v. Richard*, 1997 ME 144, ¶ 10, 697 A.2d 410, 414. The contempt order was civil in nature, as the purpose of the fine was to indemnify Antoniuk for the damages and attorney fees incurred as a result of Golden's contempt, and the order of incarceration specifically provided that Golden would be released as soon as the necessary work on her property was completed, thereby providing an opportunity for her to purge herself of the violation. *See* M.R. Civ. P. 66(d)(3)(A), (C); *Wells v. State*, 474 A.2d 846, 850 (Me. 1984). We also discern no error in the court's admission of testimony concerning the damage caused by water run-off from Golden's property, *see* M.R. Evid. 401, 402; nor did the judge abuse his discretion in deciding not to recuse himself. *See Estate of Lipin*, 2008 ME 16, ¶ 5, 939 A.2d 107, 109.

Because the judgment was in favor of Antoniuk on both of Golden's counterclaims, we do not reach Antoniuk's contention that the court erred by failing to decide the statute of limitations issue in response to the motion for summary judgment. *See In re Johnna M.*, 2006 ME 46, ¶ 7, 903 A.2d 331, 332 ("Generally, a party to an appeal does not have standing to appeal from a finding to which they object within an overall favorable result.").

The entry is:

Judgment affirmed.

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