

SUPREME JUDICIAL COURT OF MAINE

Desjardins v. Desjardins

876 A.2d 26 (Me. 2005) · Decided June 23, 2005

SUMMARY

The Maine Supreme Judicial Court held that a contempt order setting a payment amount to purge remedial imprisonment did not itself constitute a money judgment. Because no judgment had been entered, the trial court lacked authority to issue a writ of execution for that amount, and the writ order was vacated.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Calkins, J.; Alexander; Calkins; Clifford; Levy; Rudman; Saufley
JURISDICTION	Maine
DECIDED	June 23, 2005
DISPOSITION	vacated
PROCEDURAL POSTURE	John J. Desjardins appealed from a District Court order directing issuance of a writ of execution for \$7,543.75 based on a prior contempt order.
STANDARD OF REVIEW	De novo review applies because whether the District Court had authority to issue the writ of execution presents a question of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	John J. Desjardins v. Mary M. Desjardins

TOPICS

- family law procedure
- contempt
- remedies
- appellate procedure
- divorce

PRACTICE AREAS

- family law
- civil procedure
- remedies
- appellate procedure

QUESTIONS PRESENTED

- Whether a contempt order that imposed ten days' incarceration and allowed the contemnor to purge by paying a specified amount constituted a money judgment enforceable by writ of execution.

2. Whether the District Court had authority to issue a writ of execution without an underlying final monetary judgment.

HOLDINGS

1. A purge amount stated in a remedial contempt order is not automatically a compensatory fine or money judgment. Because the contempt order did not expressly enter a judgment for \$7,543.75, no enforceable money judgment existed.
2. A writ of execution may issue only to enforce a final monetary judgment. Because no judgment for \$7,543.75 existed, the District Court lacked authority to issue the writ.

KEY QUOTATIONS

“There is nothing in the rule that suggests that the purge amount is automatically translated to a compensatory fine or judgment.” (29)

“Without a judgment, the court was without the authority to issue a writ of execution.” (29)

FACTUAL BACKGROUND

The parties were involved in a divorce proceeding subject to a statutory preliminary injunction barring either party from selling or disposing of property without the other's consent. John forged Mary's name on a check for \$13,287.50 in insurance proceeds and sold a jointly owned horse for \$1,800 without Mary's knowledge. The District Court ordered ten days' incarceration for contempt and stated that John could purge the contempt by paying Mary \$7,543.75, but John did not pay and served the sentence.

PROCEDURAL HISTORY

During a pending divorce proceeding, the District Court found John in contempt for violating a preliminary injunction and ordered ten days' incarceration, allowing him to purge the contempt by paying Mary \$7,543.75 within thirty days. John did not pay and served the jail sentence. Mary then requested a writ of execution, which the District Court issued without holding the hearing John requested. The Supreme Judicial Court of Maine vacated the writ because the contempt order did not enter a money judgment.

DISPOSITION

vacated

CASES CITED

- Splude v. Dugan, 2003 ME 88, ¶ 9, 828 A.2d 772, 775-76
- Slauenwhite v. Slauenwhite, 679 A.2d 93, 94-95 (Me. 1996)
- Gordon v. Bowden, 553 A.2d 665, 666 (Me. 1989)

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