

SUPREME JUDICIAL COURT OF MAINE

Cayer v. Town of Madawaska

Cayer, 2009 ME 122 (Supreme Judicial Court of Maine 2009) · No. Aro-09-45 · Decided December 15, 2009

SUMMARY

The Maine Supreme Judicial Court affirmed the denial of Richard Cayer's motion for contempt against the Town of Madawaska. The court held that, under the unique circumstances, the Town's detailed written response and the extensive record obviated the need for a contempt subpoena, and that the trial court properly determined the Town had undertaken appropriate enforcement proceedings concerning the neighboring property's illegal structure.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Gorman, J.; Saufley, C.J.; Alexander, J.; Levy, J.; Silver, J.; Mead, J.; Jabar, J.
JURISDICTION	Maine
DECIDED	December 15, 2009
DOCKET	Aro-09-45
DISPOSITION	affirmed
PROCEDURAL POSTURE	Cayer appealed from a Superior Court judgment denying his motion for contempt against the Town of Madawaska.
STANDARD OF REVIEW	The denial of a motion for civil contempt is reviewed for abuse of discretion absent clear error in the underlying factual determinations. Interpretation of M.R. Civ. P. 66(d) is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Richard Cayer v. Town of Madawaska

TOPICS

- contempt
- appellate procedure
- civil procedure
- municipal law
- standard of review

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Contempt
- Municipal law
- Land use

QUESTIONS PRESENTED

1. Whether the Superior Court violated M.R. Civ. P. 66(d) by denying Cayer's contempt motion without issuing a contempt subpoena and conducting a full evidentiary hearing.
2. Whether the Town's enforcement proceedings against the Collinses complied with the Superior Court's May 9, 2007 order so that the Town was not in contempt.

HOLDINGS

1. Although M.R. Civ. P. 66(d)(2) ordinarily requires service of a contempt subpoena on the alleged contemnor, the Superior Court did not err in failing to issue one because the Town's detailed written answer to the motion obviated the need for a subpoena in the unique circumstances presented.
2. The Superior Court properly conducted a non-testimonial hearing and considered affidavits, exhibits, and written argument because Rule 66(d)(2)(B) permits evidence by oral testimony, depositions, or affidavits.
3. The Town was not in contempt because it undertook appropriate enforcement action against the Collinses in compliance with the Superior Court's order and the applicable ordinance.

KEY QUOTATIONS

“Thus, by its plain terms, Rule 66(d)(2) requires the court to order service of a contempt subpoena on the alleged contemnor, and to conduct a hearing and take evidence by testimony, depositions, or affidavits.” (984 A.2d at 209)

FACTUAL BACKGROUND

Cayer owned property abutting property on which the Collinses constructed a camp extension after obtaining land-use and variance approvals from the Town of Madawaska Board of Appeals. The Superior Court vacated those approvals and ordered a de novo hearing; after the Town instead entered into a consent agreement, the court voided that agreement and ordered a de novo hearing or appropriate enforcement action. The Town subsequently instituted enforcement proceedings in District Court, which were resolved by a consent order and judgment, and the Superior Court concluded that this constituted appropriate enforcement.

PROCEDURAL HISTORY

Cayer challenged his neighbors' land-use and variance approvals under M.R. Civ. P. 80B. The Superior Court vacated the approvals and remanded for a de novo hearing. After the Town entered into a consent agreement with the neighbors, the Superior Court voided that agreement and again ordered a de novo hearing or appropriate enforcement action. Cayer then moved for contempt, but the Superior Court found that the Town had undertaken appropriate enforcement proceedings and denied the motion. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- White v. Nason, 2005 ME 73, 874 A.2d 891
- Ellis v. Ellis, 2008 ME 191, 962 A.2d 328
- Bean v. Cummings, 2008 ME 18, 939 A.2d 676

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