

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AT THE LAW COURT

LAW COURT DOCKET NO. Pen-25-561

DOUGLAS H. FLOYD
Appellant

v.

KRISTI A. BUTLER
Appellee

ON APPEAL OF THE ORDER ON PENDING MOTIONS OF THE DISTRICT
COURT ON OCTOBER 16, 2025

APPELLANT'S BRIEF

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STATEMENT OF FACTS/PROCEDURAL HISTORY

On March 11, 2025, appellant filed a Motion to Modify (A. 69-73) citing reduced net income to him in the operation of his business as grounds for a reduction or elimination of spousal support.

After extensive discovery, hearing was held on September 5, 2025. Parties filed proposed orders on September 19, 2025 with the District Court.

Order was entered on October 16, 2025 (A. 32-38) finding Mr. Floyd for nonpayment of 7 spousal support payments, imposing sanctions. The Court further ordered that the sanctions would be effective over Mr. Floyd for a period of five years. The Court also granted appellee's motion to enforce and denied appellant's motion to modify.

On October 27, 2025 Appellant filed a Motion to Alter or Amend Judgment/Motion to Reconsider (A. 77-91). Appellant also filed a Request for Findings of Fact and Conclusions of Law (A. 92-98).

Appellant primarily alleges that that standard set forth in Murphy v. Bartlett, 86 A.3d 610 (Me. 2014) had not been complied with, namely that the 5 year prospective order could not be justified under the Bartlett standard.

STANDARD OF REVIEW

The Law Court shall review the findings of fact “that form a basis for [the] court's decision regarding civil contempt for clear error.” Lewin v. Skehan, 2012 ME 31, ¶18, 39 A.3d 58. The court's finding is “clearly erroneous when there is no competent evidence in the record to support it.” *Id.* If review of the factual findings reveals no clear error, the court's decision is reviewed for an abuse of discretion. *Id.*

STATEMENT OF ISSUES

- I. Whether there was sufficient evidence to find Appellant in Contempt of Court?
- II. Whether the trial court erroneously imposed a 5 year sanction (on a case involving 7 missed monthly payments) without satisfaction of the legal standard in Bartlett?
- III. Whether finding Appellant in Contempt for the Life Insurance issue was supported by the evidence?
- IV. The Jail Sentence was Erroneous and Excessive.

ARGUMENT

I. The trial court erred in finding sufficient evidence to impose sanctions against Appellant.

The standard of proof for any findings under the contempt authority must be by clear and convincing evidence.

There must be sufficient evidence to demonstrate the party acted intentionally, knowingly, or recklessly in disobeying a court order. For a court to find a party in contempt, the complaining party must establish by clear and convincing evidence that the alleged contemnor failed or refused to comply with a court order and presently has the ability to comply with that order. M.R. Civ. P. 66(d)(2)(D); Ellis, 2008 ME 191, 24, 962 A.2d at 334; *343; White v. Nason, 2005 ME 73, 7, 874 A.2d 891, 893; Wells v. State, 474 A.2d 846, 851 (Me.1984).

In Murphy v. Bartlett, the Law Court specifically reversed due to the trial court's failure to make specific findings regarding Bartlett's earning capacity as compared to his expenses and obligations.

In fact, in Murphy the Law Court wanted the trial court to make an express calculation of obligations versus expenses in any order that prospectively orders incarceration.

In no way, shape, or form has that been done in this case by the trial court in its rush to judgment.

The trial court was presented with Doug's financial statement, tax returns, debt obligations, and bank statements. And bank statements that went into 2025, contrary to the Court's assertion it didn't have 2025 information.

And as was true in this case, in Murphy, the Law Court noted that all of that information was un rebutted by the Defendant.

The Court in its failure to properly analyze this case disregarded the un rebutted financial facts of his stalled, if not declining, business, the dramatic increase in debt he has had to incur to maintain that business, and his deteriorating health condition to be able to in any way justify this prospective application. It certainly fails to meet any of the standards set out by the Law Court in Murphy.

In fact, we believe the Court's failure to perform this analysis as to current ability to pay should also be reconsidered as lacking in foundation.

II. The Trial Court Erroneously Imposed a 5 year Sanction Without Satisfying the Standards set forth in Murphy v. Bartlett.

Further in Murphy the Law Court cites the trial court's failure to make specific detailed findings regarding Doug's living expenses. Also not done in this case.

[¶ 12] In finding that Bartlett is "able to pay as ordered," the court did not make specific findings regarding Bartlett's earning capacity as compared to his expenses and obligations. Because a court's prospective imposition of

coercive imprisonment as a remedy for **contempt** is premised upon the requirement that the contemnor has the ability to perform the required acts “no later than the date established for the onset of incarceration,” *see Wrenn*, 2003 ME 29, ¶¶ 27–28, 818 A.2d 1005, the preferred practice is for the court to make an express finding of this basic calculation of obligations versus expenses in any order that prospectively orders incarceration.

In Murphy, the trial court had ordered a 3 year period of prospective application. In this case 5 years. But as in Murphy, such an order should fail based on the Court’ failure to follow interpretation of these requirements by the Law Court.

Thus, when a court orders incarceration but postpones the incarceration to afford the contemnor an opportunity to perform his obligations, “the contemnor must be found to have the ability to perform the acts required no later than the date established for the onset of incarceration.” *Id.* 28. Here, the court ordered Bartlett’s incarceration should he fail to make any payment over the next three years beginning with his next required payment, but, as established above, the finding by clear and convincing evidence that Bartlett has the ability to make all future payments required by the divorce judgment was clear error. As a result, the imposition of coercive imprisonment was likewise in error because there does not exist clear and convincing evidence that Bartlett will be able to purge himself of **contempt** and secure his freedom from incarceration. *See id.* ¶¶ 24–29; *Zink v. Zink*, 687 A.2d 229, 232–33 (Me.1996); *Tuck*, 490 A.2d at 652 (holding that the requirement that a contemnor be allowed to comply with the court order is an “essential ingredient” of a civil **contempt** sanction (quotation marks omitted)).

And shallow observations about income or assets also fail to meet these standards. See Footnote #3 of the Murphy decision.

The only finding the court made regarding Bartlett’s living expenses was its finding that Bartlett “does not have to pay” the \$400 monthly rent he owes his sister. The only evidence in the record concerning Bartlett’s rent was Bartlett’s testimony, “I have rent of 400 a month, but I haven’t been able to pay that.” Murphy did not contradict that assertion. Modest housing expenses are an ordinary necessity for most adults, and the record before the

court did not contain any information regarding alternatives to the rent that Bartlett addressed. Based on this testimony alone, it was not **reasonable** for the court to find that it was highly probable that Bartlett “does not have to pay” his rent. *See Adoption of L.E.*, 2012 ME 127, 11, 56 A.3d 1234 (“When the burden of proof at trial is clear and convincing evidence, our review is to determine whether the fact-finder could **reasonably** have been persuaded that the required findings were proved to be highly probable.”) (quotation marks omitted).

III. Finding Appellant In Contempt of the Life Insurance Provision Was Clearly Erroneous; as well as erroneous to enforce it as it did.

Life Insurance—The original Court order provides that it is the Defendant’s obligation to own and pay for a life insurance policy. It was never his obligation to obtain, own, or pay for any such policy. It is erroneous for this Court to enforce a provision that says otherwise particularly when the Defendant herself testified it may be impossible for him to get one. Specifically the Judgment says she will own the policy. The Court enforced a provision that put the entire burden on the Defendant especially in light of Defendant’s own testimony and the fact that Plaintiff executed the required paperwork twice for the Defendant. It is not Defendant’s fault that he was denied coverage by the insurance company.

IV. The Jail Sentence Was Erroneous and Excessive.

The jail sentence conditions are onerous and unjustified. Title 14 MRSA Section 3136(5) provides that the Court may impose a “reasonable” fine or imprisonment. There is no reasonableness in a 5 year prospective order that does

not expressly ensure an evidentiary hearing if it is alleged that there was a failure to comply.

CONCLUSION

The trial court did not perform a sufficient evaluation of his financial condition to justify contempt; and certainly not sufficient to impose a 5 year “sentence” on Appellant.

Further the finding against Appellant regarding the life insurance was also clearly erroneous as he performed his obligations. Insurance was denied by the company for most likely failing a physical; whatever it was, it was for their own internal reasons.

Finally the 5 year “sentence” is excessive, excessively punitive and not commensurate with a situation where Appellant was behind 7 payments but had otherwise complied with all prior financial orders until his health and business started to decline.

Respectfully submitted this 6th day of March, 2026.

/s/Joseph Baldacci

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CERTIFICATE OF SERVICE

I, Joseph M. Baldacci, Esq. Attorney for the Appellant, in the above matter, hereby certify that I have made service of the foregoing Appellant's Brief, as well as the Appendix, upon the following party, by email and by sending him two (2) copies via first class mail, postage pre-paid, on the 6th of March, 2026.

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