

Decision: 2002 ME 91
Docket: Yor-01-732
Submitted
on Briefs: May 30, 2002
Decided: June 4, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, CALKINS, and LEVY, JJ.

MARK J. AYOTTE et al.

v.

STATE TAX ASSESSOR

PER CURIAM

Mark J. Ayotte, Norman Canwell, and Dennis LaBelle, residents of New Hampshire, appeal from judgments entered in the Superior Court (York County, *Brennan, J.*), dismissing their Rule 80C appeals from decisions of the Maine Revenue Services demanding payment of income tax and assessing penalties and interest. Ayotte, Canwell, and LaBelle argue, in this consolidated appeal, that they are not required to pay Maine taxes because they work at the Portsmouth Naval Shipyard which they contend is located in New Hampshire. Last year the United States Supreme Court dismissed the State of New Hampshire's petition to locate the Maine-New Hampshire border, holding that New Hampshire was judicially estopped from asserting a position different from the position it took in a 1977 consent decree agreeing that the boundary is the "middle of the [Piscataqua River's] main channel of navigation." *New Hampshire v. Maine*, 532 U.S. 742, 751 (2001). As a result, the Supreme Court has held definitively that the Portsmouth Naval Shipyard on Seavey Island lies within the State of Maine. *Id.* at

747-48, 756. The taxpayers' appeals fail "to state a claim upon which relief can be granted." M.R. Civ. P. 12 (b)(6).

The entry is:

Judgment affirmed.

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