

Decision: 2005 ME 11

Docket: Yor-04-374

Submitted

on Briefs: December 8, 2004

Decided: January 18, 2005

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

TOWN OF KITTERY

v.

JAMES M. DINEEN

PER CURIAM

[¶1] James M. Dineen appeals from a judgment of the District Court (York, *Wheeler, J.*) denying his motion to alter or amend an order of the court denying Dineen's motion for relief from judgment from five disclosure orders dated September 16, 2002. The disclosure orders, from which no appeal was taken by Dineen, ordered that money judgments against Dineen arising from Dineen's violation of the automobile graveyard statute, 30-A M.R.S.A. § 3753 (Supp. 2004), be paid from the estate of Dineen's mother. The District Court neither erred nor acted beyond its discretion in concluding that the motion for relief from judgment was without merit and was not brought within a reasonable time pursuant to

M.R. Civ. P. 60(b). *See Keybank Nat'l Ass'n v. Sargent*, 2000 ME 153, ¶ 13, 758 A.2d 528, 533.

[¶2] Moreover, Dineen's appeal, his fourth involving this litigation with the Town of Kittery,¹ is "frivolous or instituted primarily for the purpose of delay." *See* M.R. App. P. 13(f). He failed to appeal from the five disclosure orders, and the money judgments have been paid to the Town of Kittery. He waited nearly one full year after the entry of the disclosure orders before he filed the motion pursuant to Rule 60(b), a motion that is totally without merit. Accordingly, we impose sanctions against Dineen in the form of attorney fees and treble costs.

The entry is:

Judgment affirmed. Attorney fees incurred by the Town of Kittery and treble costs are assessed against the defendant appellant. Remanded to the District Court for a determination of the Town's attorney fees on appeal.

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¹ Dineen's first appeal was dismissed for want of prosecution. In his second appeal, *Town of Kittery v. Dineen*, 591 A.2d 236 (Me. 1991), we affirmed. In his third appeal, *Town of Kittery v. Dineen*, No. 7872 (Me. Dec. 19, 1996) (unpublished mem. dec.), we affirmed and sanctioned Dineen.

For defendant:

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