

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

In re CONTEMPT OF LYLE E. DICKSON

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERIC ANDRES ANDERSON,

Defendant,

and

LYLE E. DICKSON,

Appellant.

---

UNPUBLISHED

December 19, 2006

No. 263794

Livingston Circuit Court

LC No. 05-021213-AV

Before: Meter, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Appellant Lyle E. Dickson, an attorney, was held in contempt of court, MCL 600.1701(a), for repeatedly violating orders of the Livingston District Court during the trial of his client. Appellant appealed his conviction for criminal contempt to the Livingston Circuit Court, which affirmed the district court's decision. Appellant appeals by leave granted. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Appellant's client was accused of operating a motor vehicle while under the influence of controlled substances and possession of a forged prescription. At trial, appellant questioned his client, a physician's assistant, about his legal authority to prescribe controlled substances to patients. The prosecutor objected to questions that required defendant to testify directly about the law governing his profession, and primarily those questions that required appellant's client to read various statutes and rules into the record, even though his client occasionally denied knowing about the rules and affirmatively stated that he was not an attorney. The trial court ruled that defendant could only testify regarding his beliefs about the legality of his behavior, and that the court itself would be responsible for outlining the applicable law for the jury. Even given this latitude, however, appellant repeatedly attempted to elicit testimony about the content of a federal statute by asking his client to read it into the record. The prosecutor objected on the

ground that the federal law was irrelevant because state law controlled the issue. The trial court prohibited the proposed testimony and ordered appellant to change the subject.

Appellant immediately asked defendant about his familiarity with the relevant legal principles contained on a website of the federal Drug Enforcement Agency. The prosecutor objected, and the trial court sustained the objection. When appellant continued to question the trial court's ruling, the trial court ordered him to change the subject, or terminate his examination. Appellant then asked defendant about a state statute pertaining to the placement of a physician's signature on a prescription. When defendant stated his unfamiliarity with the statute, the trial court ordered appellant to ask his next question. Instead, appellant asked defendant about the statute a second time. The trial court informed appellant that it would read a valid jury instruction about the law, but it would not "have this gentleman who says he doesn't know anything about the law telling the jury what the law is." Appellant then asked defendant if a law existed that required him to place a doctor's signature on a prescription. The trial court informed appellant that it assumed he was finished with his direct examination. When appellant protested, the trial court stated, "I don't care if you object or not. You may appeal, but I've already ruled. Now, you do it again and you get thirty days in jail. Is that clear?"

Appellant subsequently asked defendant about his familiarity with an administrative rule issued by the state Department of Community Health. The prosecutor objected, and the trial court indicated that it would allow testimony about defendant's familiarity with the rule, but not its content. The trial court again informed appellant that he could form a jury instruction. However, appellant then asked defendant to "tell the jury what that rule states." Following the prosecutor's objection, the trial court informed appellant that he was "coming very, very close to getting an orange suit." Appellant asked defendant if he knew the content of the rule. The trial court indicated that the question was permissible, but prohibited defendant from testifying about "what it states." Appellant then asked defendant to testify about the rule's content. The trial court ordered the jury to be removed from the courtroom and informed appellant, "you just got yourself fifteen days in the Livingston County Jail. You'll commence serving as soon as this trial is over."

Appellant apologized to the trial court at the end of the day. The following day, appellant apologized a second time and requested that the trial court reconsider its ruling and sentence. The trial court noted the request but took no action. The circuit court ordered a stay of the sentence in order for appellant to pursue an appeal. The circuit court subsequently affirmed the trial court's decision, but ordered a stay of appellant's sentence pending his appeal to this Court.

On appeal, appellant argues that he was serving as a zealous advocate on an issue that was outcome determinative of defendant's guilt. He claims he not did intend to offend or disobey the trial court, and the final offending question that led to his contempt conviction was asked inadvertently. We review a trial court's order of contempt for abuse of discretion. *In re Contempt of Steingold*, 244 Mich App 153, 157; 624 NW2d 504 (2000).

"Contempt of court is a wilful act, omission, or statement that tends to impair the authority or impede the functioning of a court." *In re Contempt of Robertson*, 209 Mich App 433, 436; 531 NW2d 763 (1995). Courts have both inherent and statutory power to hold a party in contempt. *In re Contempt of Auto Club Ins Ass'n*, 243 Mich App 697, 708-709; 624 NW2d 443 (2000). However, contempt may only be punished when it is clearly and unequivocally

demonstrated. *People v Matish*, 384 Mich 568, 572; 184 NW2d 915 (1971). The record supports appellant's conviction for criminal contempt. Appellant's attempts to distinguish *In re Contempt of O'Neil*, 154 Mich App 245; 397 NW2d 191 (1986) are unavailing.

Contrary to appellant's argument, the record clearly demonstrates that appellant's conduct willfully defied the court's authority and was an attempt to circumvent the function of the judge and prosecutor and directly advocate a particular legal interpretation of various rules to the jury during his client's testimony. The trial transcript indicates that appellant continually asked defendant to read certain statutes into the record after the trial court expressly prohibited it. In response to appellant's behavior, the trial court first threatened to terminate his examination of defendant, and later issued two additional threats that it would hold appellant in contempt. However, appellant continued with the prohibited line of questioning until the trial court finally found him in contempt. Although he admits on appeal that he acted intentionally, he contends the final question preceding the finding of contempt was inadvertent and accidental. However, appellant's final question was peculiarly consistent in form to his earlier questions, strongly indicating that it was intentional and knowingly defiant, not inadvertent and accidental. While we acknowledge that appellant was attempting to be a zealous advocate for his client, his actions demonstrated a willful disregard for the trial court's orders and impaired the authority and impeded the functioning of the court. *O'Neil, supra*. The trial court did not abuse its discretion when it held appellant in contempt for his actions.

We also reject appellant's challenge to the fifteen-day jail sentence. When contempt is committed in the immediate view and presence of the court, it may be punished summarily by fine, imprisonment, or both. MCL 600.1711(1); *Robertson, supra* at 437. The record clearly demonstrates that appellant ignored the repeated rulings and warnings issued by the trial court. The trial court's decision to impose a sentence that was one-half the length of the thirty days permitted under MCL 600.1715(1) demonstrates that the trial court carefully considered the consequences of its ruling. On this record, the jail sentence imposed was not an abuse of the court's discretion.

Affirmed.

/s/ Patrick M. Meter  
/s/ Peter D. O'Connell  
/s/ Alton T. Davis