

IN THE UTAH COURT OF APPEALS

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Julie Marie Cline nka Julie	)	MEMORANDUM DECISION
Marie Camp,	)	(Not For Official Publication)
	)	
Petitioner and Appellee,	)	Case No. 20040634-CA
	)	
v.	)	F I L E D
	)	(March 16, 2006)
Earl Lavere Cline II,	)	
	)	<span style="border: 1px solid black; padding: 2px;">2006 UT App 102</span>
Respondent and Appellant.	)	

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Third District, Salt Lake Department, 024902228  
The Honorable Robert K. Hilder

Attorneys: Earl Lavere Cline II, Salt Lake City, Appellant Pro  
Se  
Steven B. Wall, Salt Lake City, for Appellee

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Before Judges Billings, Davis, and Orme.

BILLINGS, Judge:

Earl Lavere Cline II (Cline) appeals the trial court's order of contempt. Cline argues the trial court should not have found him in contempt of court because there was no clear and convincing evidence supporting the order of contempt. We affirm.

"[A] finding of contempt and the imposition of a jail sentence must be supported by clear and convincing proof that (1) defendant knew what was required, (2) that he had the ability to comply, and (3) that he willfully and knowingly failed and refused to do so." Coleman v. Coleman, 664 P.2d 1155, 1156 (Utah 1983). "The decision to hold a party in contempt of court rests within the sound discretion of the trial court and will not be disturbed on appeal unless the trial court's action is so unreasonable as to be classified as capricious and arbitrary, or a clear abuse of discretion." Kelley v. Kelley, 2000 UT App 236, ¶32, 9 P.3d 171 (quotations and citation omitted).

We accept the trial court's findings because Cline has failed to adequately marshal the evidence to show that the trial court's findings of fact are clearly erroneous. Utah Rule of Appellate Procedure 24 requires "[a] party challenging a fact

finding" to "first marshal all record evidence that supports the challenged finding." Utah R. App. P. 24(a)(9). Because Cline has failed to marshal the evidence, "we assume[] that the record supports the findings of the trial court." Heber City Corp. v. Simpson, 942 P.2d 307, 312 (Utah 1997) (alteration in original) (quotations and citation omitted).

The trial court's fourteen-page order lists in detail the underlying facts supporting a determination of contempt on each issue. The detailed facts articulated by the court demonstrate that Cline had knowledge of the various court orders and instructions and had the ability to comply, but willfully failed to do so. Thus, we determine that the finding of contempt is supported by clear and convincing evidence.

Accordingly, we affirm.

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Judith M. Billings, Judge

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WE CONCUR:

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James Z. Davis, Judge

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Gregory K. Orme, Judge