IN THE COURT OF APPEALS OF IOWA

No. 7-729 / 96-1395

000315

JOHN F. TIFFANY,

Plaintiff,

vs.

IOWA DISTRICT COURT FOR GREENE COUNTY,

Defendant.

FILED
FEB 25 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Greene County, Gary L. McMinimee, Judge.

John Tiffany challenges the district court's finding that he was in contempt for failing to provide medical insurance and pay alimony as required by his dissolution decree. **WRIT ANNULLED.**

John Tiffany, Jefferson, pro se.

John C. Powell of Shirley, Powell & Finneseth, Perry, for appellee.

Considered by Cady, C.J., and Huitink and Mahan, JJ.

MAHAN, J.

Respondent filed a petition for writ of certiorari claiming the district court should not have found him in contempt of court for failing to pay alimony and medical expenses as required by the terms of the parties' dissolution decree. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

The district court entered a dissolution decree for Donna and John Tiffany in September 1994. The decree required John to maintain medical insurance for Donna and to pay alimony of $200 per month. The terms of the dissolution decree were affirmed on appeal in a memorandum opinion. *In re Marriage of Tiffany,* No. 94-1697/5-562 (Iowa App. June 3, 1996).

On June 25, 1996, Donna filed an application to have John found in contempt for failure to pay alimony or maintain her medical insurance. At the beginning of the contempt proceeding, the district court warned John the proceedings were quasi-criminal in nature and he could be sentenced to up to thirty days in the county jail. The court asked John if he wanted an attorney, and John declined to be represented by counsel.

By affidavit John alleged he did not have sufficient funds to pay Donna's medical insurance or alimony. The district court noted John had assets which were not insubstantial at the time of the dissolution decree. The district court concluded John's failure to pay alimony and medical insurance was willful and sentenced him

to thirty days in the county jail. The district court gave John forty-five days to purge the contempt. John filed a petition for writ of certiorari.

I. Courts enjoy wide discretion in determining and punishing contemptuous behavior. *In re S.D.L.*, 568 N.W.2d 41, 42 (Iowa 1997). We interfere in such judgments only when discretion has been clearly abused, that is, when the court's decision rests on unreasonable or untenable grounds, or erroneous legal conclusions. *Shedlock v. Iowa District Court*, 534 N.W.2d 656, 660 (Iowa 1995).

II. John contends the contempt proceedings were actually criminal in nature. He believes the proceedings were improper because the district court did not afford him the usual and minimal procedures guaranteed to a criminal accused.

We determine John failed to preserve error on this issue. The district court specifically informed John the proceedings were quasi-criminal in nature. John raised no objection, and thus, the present issue was not ruled upon by the district court. Because there is no district court ruling on this issue, there is nothing for us to review.

III. John claims the district court failed to follow Iowa Code section 598.25 because the contempt hearing was not held in the same county where the dissolution hearing was held. In this issue, also, John failed to object prior to the entry of the court's order. We determine he has failed to preserve error on this issue.

IV. John contends he should have a right to appeal because this was a criminal proceeding. John's reliance on the case of *Hicks v. Feiock*, 485 U.S. 624,

108 S. Ct. 1423, 99 L. Ed. 2d 721 (1988), is misplaced. The Supreme Court in *Hicks* stated that if the relief in a contempt action is a determinate sentence with a purge clause, the relief is civil in nature. *Hicks*, 485 U.S. at 640, 108 S. Ct. at 1434, 99 L. Ed. 2d at 737. Thus, the relief imposed in the present case was civil in nature. We conclude John was not denied his right to appeal a criminal proceeding.

We affirm the decision of the district court finding John in contempt of court. The petition for writ of certiorari is annulled.

WRIT ANNULLED.