

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2009-052

VERMONT SUPREME COURT  
FILED IN CLERK'S OFFICE

OCT. 8 2009

OCTOBER TERM, 2009

Agency of Transportation and	}	APPEALED FROM:
Agency of Natural Resources	}	
	}	
v.	}	Orleans Superior Court
	}	
Harold N. Rock, Sr., Elaine N. Rock,	}	DOCKET NO. 231-10-06 Oscv
Harold N. Rock, Jr. and Ronald Rock	}	

Trial Judge: Edward J. Cashman

In the above-entitled cause, the Clerk will enter:

Defendants appeal pro se from the trial court's holding that they violated a 2007 court order by failing to remove excessive junk from their property. They raise a number of arguments, most of which are not properly before us. We affirm the court's decision.

This proceeding stems from ongoing enforcement efforts against the Rocks. In November 2007, the trial court issued a permanent injunction, finding that the Rocks were operating an unlicensed junkyard and solid waste facility on their property. The court also found that the Rocks stored materials on adjacent state land without permission. The Rocks were ordered, in relevant part, to remove all materials from the site by June 1, 2008. No appeal was taken from this order.

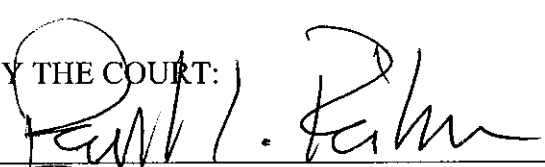
In October 2008, the State moved for immediate enforcement of the 2007 order based on the Rocks' failure to comply with its terms. Following a hearing conducted on site, the trial court held that the Rocks violated the earlier order by failing to remove all of the junk from their property. It found that the Rocks made no good faith effort to comply with the 2007 order, basing their decisions to remove property on economic considerations instead. The court imposed a charge of \$100.00 per day as long as the Rocks were not in compliance, beginning with the date of its order until March 31, 2009. If the Rocks complied by that date, any fees would be waived. If they failed to comply, there would be a lien on the property for the amount owed, and the State would have the right to remove the junk from the property and recover the reasonable costs of such removal from the Rocks. The Rocks appealed from this order.

Many of the Rocks' arguments appear to involve the merits of the court's 2007 order, not the 2009 order on appeal. They assert, for example, that the State failed to prove its ownership of adjacent land where the Rocks stored junk. This issue was resolved in 2007, and the 2007 order was not appealed. That order is final, and the Rocks cannot challenge the merits of that decision now. See V.R.A.P. 4 (appeal must be filed within thirty days of date of order appealed from). We note that the Rocks stipulated in 2006 that they placed materials on state land,

The Rocks also raise claims for restitution and other damages. The Rocks fail to show that these claims were raised below, and we conclude that they were waived. See In re S.B.L., 150 Vt. 294, 297 (1988) (appellant bears burden of demonstrating how the trial court erred warranting reversal and Supreme Court will not comb the record searching for error); Bull v. Pinkham Eng'g Assocs., 170 Vt. 450, 459 (2000) (“Contentions not raised or fairly presented to the trial court are not preserved for appeal.”). These arguments are also irrelevant to the issue before us—namely whether the court erred in finding the Rocks in violation of the 2007 order. For similar reasons, we do not address the Rocks’ complaints about defamation and harassment. To the extent that the Rocks challenge the imposition of coercive sanctions, we find no error as the court’s approach is consistent with our case law. See, e.g., Mann v. Levin, 2004 VT 100, ¶ 32, 177 Vt. 261 (citation omitted) (explaining that “civil contempt fines may be imposed in an appropriate circumstance either to compensate complainants or as a coercive sanction”). The Rocks fail to show that the court erred in reaching its decision here.

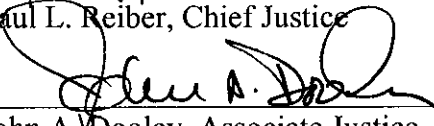
Affirmed.

BY THE COURT:



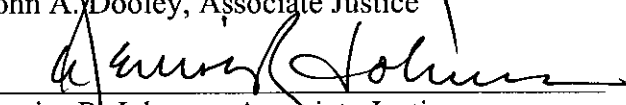
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Paul L. Reiber, Chief Justice



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John A. Dooley, Associate Justice



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Denise R. Johnson, Associate Justice