

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

IN THE ESTATE OF LAURA B. DOWNS, Deceased

JAMES L. RUTTER, Personal Representative,

Respondent,

v.

ELDON K. BUGG,

Appellant.

DOCKET NUMBER WD70409

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: December 15, 2009

Appeal from

The Circuit Court of Boone County, Missouri
The Honorable Deborah Daniels, Judge

Appellate Judges:

Division Three: Karen King Mitchell, P.J., and James E. Welsh and Mark D. Pfeiffer, JJ.

ATTORNEYS

Jean E. Goldstein
Columbia, MO

Attorney for Respondent,

Eldon K. Bugg
Boonville, MO

Appellant, *pro se*.

MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

IN THE ESTATE OF LAURA B. DOWNS,)
Deceased)
)
JAMES L. RUTTER, Personal)
Representative,)
)
Respondent,)
v.)
)
ELDON K. BUGG,)
)
Appellant.)

WD70409

Boone County

Before Division Three Judges: Karen King Mitchell, P.J., and James E. Welsh and Mark D. Pfeiffer, JJ.

Eldon K. Bugg appeals the trial court’s judgment holding him in contempt of court and ordering him confined to the Boone County Jail until he repays the Estate of Laura B. Downs the money he owes it. On appeal, Bugg presents two points. Because we find his first point dispositive, we address that point only. In his first point on appeal, Bugg claims that the trial court erred in entering a judgment of contempt and an order confining him to jail until he complies with the court’s judgment ordering him to pay the Estate the money he owed it, because his confinement violates the constitutional prohibition against imprisonment for debts. Specifically, Bugg claims that his confinement violates the constitutional prohibition against imprisonment for debts because the judgment against him required him to repay a promissory note to avoid continued imprisonment.

REVERSED.

Division Three holds:

In this case, the origin of the Estate’s claim against Bugg was a contractual agreement between the decedent and Bugg in which the decedent loaned Bugg \$42,000 and Bugg executed a promissory note to repay the decedent the money. In that regard, the decedent was the creditor and Bugg was her debtor. Furthermore, it is undisputed that Bugg cannot return those *specific funds* because he no longer has that fund in his possession. Instead, the trial court’s finding was merely that Bugg possessed the “financial ability” to satisfy the money judgment. Thus, the trial court’s order held Bugg in contempt for failing to repay money from his own resources to satisfy an obligation that arose from a consensual transaction between a creditor and a debtor. This is the definition of a debt for the purposes of the constitutional provision against imprisonment for debts. The trial court’s order imprisoning Bugg for failing to repay the promissory note violates Missouri’s constitutional prohibition against imprisonment for debts.

Opinion by: Mark D. Pfeiffer, Judge

December 15, 2009

THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.