

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

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STATE OF IOWA DEPARTMENT OF  
HUMAN SERVICES,

Plaintiff,

vs.

KEVINGTON LANE, INC., MORSE  
HEALTHCARE SERVICES, INC. D/B/A/  
FAITH RIDGE LIFE CENTER, MANOR  
OF MALVERN, INC., MARY MORSE  
BOLTON, MORSE ENTERPRISES, INC.  
D/B/A/ KEVINGTON LANE, and JOHN  
BOLTON,

Defendants.

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Case Number EQCE075708

**FINDING OF CONTEMPT UNDER  
IOWA CODE CHAPTER 665  
AND SENTENCING ORDER**

On June 6, 2014, this matter came before the Court on Plaintiff's Motion for Notice to Show Cause and Application for Contempt for violation of this Court's order entered on February 13, 2014. Plaintiff was represented by Assistant Attorney General Timothy Vavricek. Defendant Mary Morse Bolton appeared before the Court and was represented by attorney Robert Gainer. Defendant John Bolton appeared before the Court and was represented by attorney John Mayne. After hearing all of the evidence, weighing the credibility of the witnesses, and being otherwise advised of the facts of the case, the Court makes the following findings:

On February 13, 2014, a hearing was held on Plaintiff's Application for Relief pursuant to Iowa Code section 249A.44. At the conclusion of the hearing, the Court ruled from the bench and granted the relief Plaintiff requested. On that same day, the Court entered a written ruling consistent with the oral ruling from the bench. Section 2 of that ruling stated in part:

Defendants shall also refrain from transferring property or otherwise taking any action inconsistent with the Department's right to recover overpayments of medical assistance from Defendants. (See Plaintiff's Exhibit 1)

Defendants both testified that following the hearing on February 13, 2014, they returned to Fremont County, Iowa where they met with their former employee Zenith Wilbur. They met with Wilbur at approximately 8:30 p.m. that night in order for her to notarize a security agreement that John Bolton had entered into with Morse Healthcare Services, Inc. The Security Agreement is dated February 13, 2014 and obligates Morse Healthcare Services to pay John Bolton \$15,000.00 with interest at a rate of 6% annually. This information was corroborated by the testimony of Wilbur.

The Security Agreement is in direct violation of the Court's order which states in part:

“Defendants shall also refrain from transferring property or otherwise taking any action inconsistent with the Department's right to recover overpayment of medical assistance funds from Defendants.”

Additionally, Plaintiff presented evidence (*see* State's Ex. 11 and 12) that on March 7, 2014, Mary Morse Bolton deeded via quit claim deeds two separate residential properties to John Bolton. This evidence was corroborated by the testimony of both Defendants.

Both Defendants testified they did not understand the Court's oral ruling entered from the bench on February 13, 2014. Defendants claim the ruling was indefinite and ambiguous and therefore any violation by them was unintentional. An order or an injunction must be clear, definite, and unambiguous before it may provide a basis for contempt. *Copic v. Iowa Dist. Court*, 356 N.W.2d 223, 226 (Iowa 1984); *Lynch v. Uhlenhopp*, 248 Iowa 68, 72–75, 78 N.W.2d 491, 494–95 (Iowa 1956). As stated in *Lynch*:

The contempt proceeding is so near in its nature to criminal prosecutions that the well-known rule which commands that one cannot be convicted of a crime unless the statute is clear and definite so that he may know what he can and what he cannot do, is at least analogous.

78 N.W.2d at 494.

The Court does not find Defendants' argument credible. Both Defendants had numerous inconsistencies in their testimony, and they contradicted one another. Additionally, if Defendants were confused by the Court's oral ruling, they could have reviewed the written ruling filed on February 13, 2014 at approximately 3:10 p.m.

Contempt can be described as willful disobedience. A finding of willful disobedience requires evidence of conduct that is intentional and deliberate with a bad or evil purpose, or wanton and in disregard of the rights of others, or contrary to a known duty, or unauthorized, coupled with an unconcern whether the contemner had the right or not.

*Ervin v. Iowa Dist. Court for Webster Cnty.*, 495 N.W.2d 742, 744 (Iowa 1993) (citations omitted).

The Court not only finds that Defendants acted willfully, but they acted with a blatant and brash disregard for the Court's order.

The Court finds beyond a reasonable doubt that Defendants were aware of the Court's February 13, 2014 order. Additionally, the Court finds beyond a reasonable doubt Defendants violated the February 13, 2014 order wilfully.

The Court finds Defendants John Bolton and Mary Morse Bolton each guilty of one count of Contempt of Court in violation of Iowa Code section 665.

The Court further finds the following sentence is appropriate to punish and deter Defendants from further prohibited conduct.

**IT IS THEREFORE THE ORDER OF THE COURT** that John Bolton and Mary Morse Bolton are each adjudicated to be guilty of one count of Contempt of Court pursuant to Iowa Code section 665.

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** they shall each serve 90 days in the Polk County Jail. Mittimus to issue on June 13, 2014 at 9 a.m. Defendants are

advised that pursuant to Iowa Code section 665.11 they may seek review of this sentence by filing a writ of certiorari within thirty days from the entry of this order.

Defendants' oral Motion for a Stay is hereby DENIED.

Bond on Appeal is set at \$20,000.00 cash only.



State of Iowa Courts

**Type:** OTHER ORDER

**Case Number**      **Case Title**  
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So Ordered

A handwritten signature in cursive script that reads 'MP Gunderson'. The signature is written in black ink and is positioned above a horizontal line.

Mary Pat Gunderson, District Court Judge,  
Fifth Judicial District of Iowa