

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JULIE A. SU, Acting Secretary of Labor,

Petitioner,

v.

CHRISTOPHER C. ARPS,

Respondent.

8:23CV138

**CONTEMPT
ORDER**

This matter is before the Court following a January 4, 2024 contempt hearing on the Motion for Adjudication of Civil Contempt (Filing No. 13) brought by petitioner Julie A. Su, Acting Secretary of Labor (“Secretary”). The Secretary’s representative, Matt Thurlby, Director of the Omaha Area Occupational Safety and Health Administration Office, appeared at the hearing and provided evidence in support of the motion. Respondent Christopher C. Arps (“Arps”) did not appear. This contempt order memorializes and supplements the Court’s findings and rulings from the bench.

Arp’s absence from the contempt hearing is in keeping with his prior refusal to participate—or even acknowledge—this case. On August 17, 2023, the magistrate judge¹ entered an order directing Arps, who does business as Capital City Roofing and Construction, to appear before him on October 10, 2023. Arps was provided notice of the hearing and was warned that his failure to appear would result in the magistrate judge’s recommendation that he be held in contempt of court and subject to the imposition of other sanctions.

Arps failed to appear at the October 10, 2023 hearing. The Secretary’s representative appeared and presented evidence. After the hearing, the

¹The Honorable Michael D. Nelson, United States Magistrate Judge for the District of Nebraska.

magistrate judge issued (Filing No. 24) a Certification of Facts supporting contempt and Findings and Recommendation (“certification”). *See* 28 U.S.C. § 636(e)(6)(iii).

Arps did not object to (or appeal) the magistrate judge’s certification. Out of an abundance of caution and given the likelihood of monetary or further contempt sanctions, this Court provided Arps one more opportunity to appear. On November 17, 2023, the Court ordered (Filing No. 25) Arps to appear before it on January 4, 2024 and show cause why he should not be held in civil contempt and determine if sanctions were appropriate at that time. Arps again received notice of this order by mail. As noted, Arps once again failed to appear at the January 4, 2024 hearing.

In addition to the evidence presented by the Secretary at the hearing, the Court has considered all the previous exhibits which had been filed and considered by the magistrate judge in this matter. Because Arps continues to ignore the Secretary’s efforts to properly obtain documentation and has completely failed to respond to two separate show-cause orders, the Court finds that Arps is in civil contempt of court and that monetary sanctions are appropriate. The Court therefore adopts the magistrate judge’s certification (as defined above).

Based upon the foregoing and the magistrate judges’s certification,

IT IS ORDERED:

1. Respondent Christopher C. Arps is held in civil contempt of court until such time as he purges contempt by responding to the Secretary’s Administrative Subpoena.
2. Arps shall immediately cease and desist from disobeying and resisting the Court’s May 26, 2023 Order (Filing No. 9) and must produce the required documents by January 26, 2024.
3. In the event Arps fails to produce the required documents by January 26, 2024, he shall pay a coercive fine of \$100 per day until those documents are produced.
4. Arps shall pay reasonable attorney fees and costs in the amount of \$5,926.56 to the United States Department of Labor by January 26, 2024.

5. **Arps is warned again, to the extent that he continues to ignore the Court's order, that he may be subject to additional contempt sanctions without further notice, including incarceration with his release conditioned upon compliance with the Administrative Subpoena and the Court's May 26, 2023 Order.**
6. The Clerk of Court is directed to provide the United States Marshal with copies of this Contempt Order and the accompanying USM Form 285, Process Receipt and Return. The United States Marshal is directed to serve Christopher Arps, d/b/a Capital City Roofing and Construction at 1939 N. 88th Street, Lincoln, Nebraska 68505 with this Contempt Order.
7. The Clerk of Court is further directed to mail a copy of this Contempt Order to:

Christopher Arps d/b/a Capital City Roofing and Construction
1939 N. 88th Street
Lincoln, Nebraska 68505

Dated this 16th day of January 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", written in a cursive style.

Robert F. Rossiter, Jr.
Chief United States District Judge