

Electronically Filed
Jan 05 2022 03:27 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

ORENTHAL JAMES SIMPSON,)	
)	
Appellant,)	Supreme Court No. 83199
)	District Court Case No. A807284
vs.)	
)	
PAUL DORSEY,)	
)	
Respondent.)	

APPELLANT’S RESPONSE TO ORDER TO SHOW CAUSE

Appellant Orenthal James Simpson, through his attorney Malcolm P. LaVergne, Esq., hereby submits his Response to the Order to Show Cause.

Specific Orders Sought to be Appealed

Appellant seeks appellate review of two orders. The first is the order denying Appellant’s motion for relief from judgment, which this Court acknowledges as an appealable order. Specifically, Appellant’s motion for relief from judgment focuses on Respondent’s desire to litigate issues that were already resolved in the California Superior Court, and Respondent’s continued effort to enforce a pending writ of execution at the California statutory interest rate of 10 percent. Attached hereto as Exhibit “1.” is a true and correct copy of the pending writ of execution that

Respondent seeks to enforce against Appellant. The second order that Appellant seeks review of is from the order denying of his countermotion to quash Respondent's pending writ of execution based on a glaring and voidable defect of an exorbitant interest rate under Nevada law. Although Respondent admitted at the trial court that the pending writ of execution was plain error and promised to issue any future writs of execution at the correct interest rate, Respondent insists on enforcing the current writ of execution at the obviously incorrect and voidable 10-percent interest rate. Despite being aware of this defect, the trial court denied Appellant's countermotion to quash the writ of execution and is allowing enforcement to proceed at the 10-percent interest rate.

Reason to Preserve Appeal of Both Orders in this Docket

The order denying of the countermotion to quash and the order denying the motion for relief from judgment are equally related, which is allowing Respondent to enforce a writ of execution at a patently incorrect and exorbitant rate under Nevada law. Appellant asserts the issues from both orders should be heard at the same time.

If this Court acts on the denial of the countermotion to quash regarding the writ of execution in this appeal or entertains the denial of countermotion to quash in a separate petition for a writ of mandamus pursuant to NRAP 17, then that resolution would essentially resolve the entirety of Appellant's grievances at this time.

Respondent should not be allowed to collect a 10-percent interest rate through a judgment enforcement action pending in Nevada.¹

Dated this 5th day of January 2022.

/s/ Malcolm LaVergne
Malcolm P. LaVergne

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¹ Appellant misapplied NRAP 3A(b)(2) in the docketing statement due to a motion to alter or amend judgment that was filed at the trial level.

CERTIFICATE OF SERVICE

Malcolm P. LaVergne, Esq., attorney for Appellant Orenthal James Simpson, hereby certifies that on January 5, 2022, I served a true and correct copy of the Response to the Order to Show Cause on the following by first class U.S. Mail.

David Mincin
7465 West Lake Mead Boulevard #100
Las Vegas, Nevada 89128

Craig Newman
410 South Rampart Boulevard Suite 350
Las Vegas, Nevada 89145

Lansford W. Levitt
4230 Christy Way
Reno, Nevada 89519

/s/ Malcolm LaVergne
Malcolm P. LaVergne

Exhibit “1”

Exhibit “1”

WRIT

David Mincin, Esq. (NV Bar #5427)
(Name and Bar Number (if any))

7465 W. Lake Mead Boulevard, #100
(Address)

Las Vegas, Nevada 89128
(City, State, Zip Code)

702-852-1957
(Telephone and Facsimile Number)

dmincin@mincinlaw.com
(E-mail Address)

☐ Attorney for Paul Dorsey

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

PAUL DORSEY

Plaintiff,

vs.

ORENTHAL JAMES SIMPSON

Defendant.

Case No.: A-19-807284-F

Dept. No.: 11

WRIT OF EXECUTION

☐ EARNINGS

☐ BANK ACCOUNT

☐ OTHER PROPERTY

THE PEOPLE OF THE STATE OF NEVADA:

To the Sheriff of Clark County or the Constable for the Township of Las Vegas, Nevada

Greetings:

☐ To Financial Institutions: This judgment is for the recover of money for the support of a person.

On December 19, 2019, a judgment was domesticated and entered by the above-entitled court in the

above-entitled action in favor of Paul Dorsey, as Judgment

creditor and against Orenthal J. Simpson, as Judgment Debtor, for:

\$ 1,275,000.00 Principal,

\$ 0.00 Pre-Judgment Interest,

\$ 0.00 Attorney's Fees, and

\$ 0.00 Costs, making a total amount of

\$ 1,275,000.00 and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed

herein, it appears that further sums have accrued since the entry of judgment, to wit:

\$ 4,516,737.85 Accrued Interest, and

\$ 0.00 Accrued Costs, together with

\$ 0.00 Fee, for the issuance of this writ, making a total of

\$ 5,791,737.85 As accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of

\$ 0.00

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$ 5,791,737.85

actually due on the date of the issuance of this writ, of which

\$ 5,791,737.85

bears interest at 10.0 percent per annum, in the amount of \$ 624.8471 per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, CONSTABLE/SHERIFF, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, 82 percent of the disposable earnings of the debtor during that week if the gross weekly salary or wage of the debtor on the date the most recent writ of garnishment was issued was \$770 or less, 75 percent of the disposable earnings of the debtor during that week if the gross weekly salary or wage of the debtor on the date the most recent writ of garnishment was issued exceeded \$770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 *et. seq.*, and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Judgment Debtor to be executed upon is Orenthal J. Simpson – Execution against any and all claims and

choses in action by Orenthal J. Simpson against The Cosmopolitan Of Las Vegas, including all claims

stated in Complaint filed by Orenthal J. Simpson Against The Cosmopolitan Of Las Vegas,

in Clark County District Court Case No.: A-19-805061-C

1 You are required to return this Writ from date of issuance not less than 10 days or more than 60 days with
2 the results of your levy endorsed thereon.

3 STEVEN D. GRIERSON
4 CLERK OF COURT

5 By: Michelle H. Black 2/24/2021
6 Deputy Clerk Date
7 Michelle McCarthy

8 Issued at the direction of:

9 David

10 ☒ Attorney for Paul Dorsey

Name: David Mincin, Esq., MINCIN LAW, PLLC

11 Address: 7465 W. Lake Mead Boulevard, #100

City,

State, Zip: Las Vegas, Nevada 89128

Phone: 702-852-1957

E-mail: dmincin@mincinlaw.com

14
15
16
17 SHERIFF OR CONSTABLE INFORMATION

18 AMOUNTS TO BE COLLECTED BY LEVY:

RETURN:

19 NET BALANCE: _____

____ Not satisfied \$ _____

____ Satisfied in sum of \$ _____

20 Garnishment Fee: _____

____ Costs retained \$ _____

21 Mileage: _____

____ Commission retained \$ _____

22 Levy Fee: _____

____ Costs incurred \$ _____

Postage: _____

____ Commission incurred \$ _____

23 Other: _____

____ Costs received \$ _____

24 Sub-Total: _____

25 Commission: _____

26 REMITTED TO JUDGMENT CREDITOR:

27 \$ _____

1 I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy
2 endorsed thereon.

3 SHERIFF OF CLARK COUNTY or
4 CONSTABLE FOR THE TOWNSHIP OF _____

5 By: _____ Date _____
6 Title _____

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NOTICE OF EXECUTION

**YOUR PROPERTY IS BEING ATTACHED OR YOUR
WAGES ARE BEING GARNISHED**

A court has determined that you owe money to Paul Dorsey, the judgment creditor. She has begun the procedure to collect that money garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services of a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home may be exempt;

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than \$15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed \$500,00 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to section et seq, of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by an beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of an arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. A vehicle for use by you or your dependent which is specifically equipped or modified to provide mobility for a person with a permanent disability.

17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependant at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

21. Payments received as restitution for a criminal act.

22. Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.

23. A tax refund received from the earned income credit provided by federal law or a similar state law.

24. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is

exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through Clark County Legal Services.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

(Added to NRS by 1989, 1135; A 1991, 811, 1412; 1995, 227, 1071; 1007, 265, 3412; 2003, 1010, 1812)