

STATE OF MICHIGAN
COURT OF APPEALS

LEEROY H. TEMROWSKI, JR.,

Garnishor Plaintiff-Appellant,

V

GREG KWIET,

Defendant,

and

CYNTHIA KWIET,

Garnishee Defendant-Appellee.

UNPUBLISHED

November 17, 2005

No. 254154

Macomb Circuit Court

LC No. 2003-000029-CK

Before: Gage, P.J., and Hoekstra, and Murray, JJ.

PER CURIAM.

Plaintiff appeals as the trial court order terminating a writ of garnishment. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff obtained a default judgment against defendant Greg Kwiet. To collect the judgment, plaintiff obtained a writ of garnishment against defendant's wife, garnishee defendant Cynthia Kwiet. After garnishee defendant did not file a disclosure, plaintiff obtained a default judgment against her. Plaintiff then obtained a writ of garnishment against garnishee defendant's employer. Garnishee defendant filed objections to the garnishment. The circuit court granted the objections and terminated the garnishment.

Plaintiff maintains that he complied with all applicable statutes and court rules in obtaining the writ of garnishment and that the trial court erred in terminating the garnishment. We review for an abuse of discretion a trial court's decision to set aside a writ of garnishment. *Brookdale Cemetery Ass'n v Lewis*, 342 Mich 14, 19; 69 NW2d 176 (1955). He complains that garnishee defendant did not cite any legal authority in support of her objections and that the court did not provide any legal authority for its ruling. Although the trial court said that it did not need any law because its ruling was based on "common sense," the court's decision had a legal basis. Under MCR 3.101(K)(2)(f), a garnishee defendant may object to a garnishment on the basis that it was "not properly issued or is otherwise invalid." Here, garnishee defendant objected that she was not served with the writ of garnishment and that, therefore, the garnishment was not

properly issued. She also maintained that she was not indebted to her husband and that she did not control or possess his money or property and that, therefore, the garnishment was invalid. We find that these were proper legal bases for objecting to and terminating the garnishment.

Plaintiff also claims that the circuit court should have granted his motion for reconsideration. We review for an abuse of discretion a trial court's decision on a motion for reconsideration. *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000). The standard for granting a motion for reconsideration is whether a palpable error occurred that misled both the court and the parties and whether a different disposition must result from the correction of the error. MCR 2.119(F)(3); *Churchman, supra* at 233. Plaintiff has identified several citations to legal authority and maintains that he has complied with all of them in obtaining the writ of garnishment. However, he has not explained how the court erred in ignoring or violating those provisions and, therefore, has not shown that the court committed a palpable error that misled the court and parties and that correction of the error requires a different disposition. Therefore, the trial court did not abuse its discretion in denying plaintiff's motion for reconsideration.

Affirmed.

/s/ Hilda R. Gage

/s/ Joel P. Hoekstra

/s/ Christopher M. Murray