

Order

Michigan Supreme Court
Lansing, Michigan

April 7, 2010

Marilyn Kelly,
Chief Justice

137698

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,
Plaintiff-Appellee,

v

SC: 137698
COA: 277300
Wayne CC: 06-612812-AV

SYLVESTER HUDSON,
Defendant-Appellant.

On December 9, 2009, the Court heard oral argument on the application for leave to appeal the October 7, 2008 judgment of the Court of Appeals. On order of the Court, the application is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the Court of Appeals and we REMAND this case to the 36th District Court with directions to grant the defendant's motion to set aside the default and the default judgment. We conclude that the district court abused its discretion in allowing substituted service because the plaintiff did not demonstrate a "diligent inquiry" to ascertain the defendant's present address, as required by MCR 2.105(I)(2). Therefore, the plaintiff failed to show that service of process could not reasonably be made and that substituted service should be permitted.

Because the defendant was not properly served and did not appear in court, the district court lacked jurisdiction over the defendant. See *Turrill v Walker*, 4 Mich 177, 184 (1856); *Kulko v Superior Court of California*, 436 US 84, 91; 98 S Ct 1690; 56 L Ed 2d 132 (1978). Accordingly, the grounds in MCR 2.603(D)(1) for setting aside a default have been met.



0331

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 7, 2010

Corbin R. Davis

Clerk