

IN THE COURT OF APPEALS
AT KNOXVILLE

FILED
February 28, 2000
Cecil Crowson, Jr.
Appellate Court Clerk

HENRY SCHEIN, INC.,
Plaintiff/Appellant,
v.
EDMOND WATTS, DVM,
Defendant/Appellee.

) E1999-02128-COA-R3-CV
) WASHINGTON COUNTY
) 03A01-9906-CV-00234
)
)
) HON. G. RICHARD JOHNSON
) JUDGE
)
)
) REVERSED AND REMANDED
)

DAVID A. LUFKIN, Lufkin Henley & Conner, PLLC, Knoxville, for
Appellant

EDMOND WATTS, Pro Se

O P I N I O N

Goddard, P.J.

This appeal involves the issue of jurisdiction. Henry Schein, Inc., the Plaintiff/Appellant, was awarded a judgment against Dr. Edmond Watts, the Defendant/Appellee, in the General Sessions Court of Washington County.

Schein presents two issues, which we restate, for our review:

1. Whether the General Sessions Court had jurisdiction over any of the proceedings which occurred in this case after the entry of judgment.

2. Whether the Circuit Court had jurisdiction over the appeal from General Sessions Court.

We note that Dr. Watts did not submit a brief on appeal.

We reverse the judgment of the Circuit Court and remand for proceedings consistent with this opinion.

On December 17, 1997, Schein was awarded a judgment of \$6,311.01 against Dr. Watts in the Washington County General Sessions Court. Although Tennessee Code Annotated § 27-5-108 provides for a ten-day period in which to appeal the judgment from General Sessions Court, no appeal was filed, and the judgment has not been satisfied.

In May 1998, Schein caused to be issued a writ of execution requesting legal authorities to levy on certain assets held by Dr. Watts.¹ On May 8, 1998, a local constable seized the vehicle listed in the writ of execution and seized a Packard Bell computer system.

On May 13, 1998, Dr. Watts filed a Motion to Quash Garnishment/Execution and Claim Exemption Rights, and on May 22,

¹Specifically, the writ of execution requested a levy on all assets, office equipment, a 1986 Gray Ford with the vehicle identification number 1FABP4033GG123403, cash on the premises, power tools, and anything else of value.

1998, the General Sessions Court heard this motion.² The General Sessions Court granted Dr. Watts's Motion to Quash, and ordered that the vehicle and computer that had been seized be returned to him. Schein's attorney filed a Motion to Reconsider on June 3, 1998. On July 7, 1998 Dr. Watts filed a Motion for Costs, which sought to have the storage costs for the vehicle taxed to Schein. On October 7, 1998, a hearing was held on both motions, and at that hearing, the General Sessions Court denied the Motion to Reconsider and taxed the storage costs of \$900 for the vehicle to Schein.

On October 19, 1998, the ruling by the General Sessions Court regarding the Motion to Quash was appealed to the Johnson City Law Court.³ On April 19, 1999, the Law Court heard the case and on May 12, 1999 entered an order affirming the General

² The Court had been informed by Schein's attorney that no one could appear for it on that date.

³ A Law Court has the same jurisdiction as a Circuit Court.

Sessions Court's decision to quash the writ of execution. Schein now appeals the Law Court's decision.

General Sessions Courts are courts of limited jurisdiction, and their authority depends on the nature and the amount of the dispute. Ware v. Meharry Medical College, 898 S.W.2d 181, 183-84 (Tenn. 1995).

Our Supreme Court explained the jurisdiction of a General Sessions Court in Travelers Indemnity Company v. Callis, 481 S.W.2d 384, 385 (Tenn. 1972)(quoting Caruthers' History of a Lawsuit, 8th Edition):

Courts of record usually possess the power of correcting abuses in final process awarded by them.... This power does not belong to justices of the peace or general sessions courts. Their jurisdiction is limited to the rendition of the judgment, the granting of an appeal, the stay and issuance of the execution, and the issuing of writs of scire facias where proper. The theory of their jurisdiction is that it extends only to the

limits defined by statute law, and that the giving to them jurisdiction of a subject does not carry with it all those general powers of making that jurisdiction effectual, or of preventing its working injustice, which belongs to courts of general jurisdiction. When a justice or general sessions court renders judgment in a case and adjourns, the court is at an end, and the court has no further power over it except what the statutes give. The court cannot after that day grant a new trial, or in any way prevent the consequences of its acts, however erroneous [they] may be. But the court may correct merely clerical errors in its judgments upon the application of a party and proper notice to the other party.

Notwithstanding this limitation of jurisdiction, "relief might be had from an abuse of the process of a justice of the peace, or a Court of General Sessions, by a petition for certiorari to supersede and to quash the levy." Travelers, 481 S.W.2d at 385.

"The justice who issued the execution has no power to correct this abuse, but the circuit court, in virtue of its general revisory jurisdiction, may supersede and quash the levy." Jones v. Williams, 32 Tenn. 105, 106 (1852).

A Circuit Court when acting as an appellate body cannot validate a judgment which the General Sessions Court had no jurisdiction to make. Riden v. Snider, 832 S.W.2d 341, 342 (Tenn. Ct. App. 1991); see Tennessee Code Annotated § 16-10-112.

The timely perfecting of an appeal is a mandatory requirement, and if it is not complied with, the Court has no jurisdiction over the case. Love v. College Level Assessment Services, Inc., 928 S.W.2d 36, 38 (Tenn. 1996).

A party may appeal from an adverse decision of the General Sessions Court to the Circuit Court within a period of ten days, and the appeal shall be heard de novo in the Circuit Court. Tennessee Code Annotated § 27-5-108.

The record shows that Dr. Watts did not appeal the judgment of \$6,311.01 awarded to Schein within the ten-day period provided by Tennessee Code Annotated § 27-5-108. The General Sessions Court was without jurisdiction to quash the execution it issued, and therefore, the Circuit Court acting as an appellate body could not validate a judgment that the General Sessions Court had no jurisdiction to make.

In light of the foregoing, we reverse the judgment of the Circuit Court and remand to the Circuit Court for proceedings consistent with this opinion. Costs of appeal are adjudged against Dr. Watts and his surety.

Houston M. Goddard, P.J.

CONCUR :

Herschel P. Franks, J.

D. Michael Swiney, J.