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Los Angeles Superior Court

APR 10 2007

John A. Clarke, Executive Officer/Clerk

By R. Miklos, Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WEST DISTRICT, SANTA MONICA

FREDERIC GOLDMAN, an individual, and
as and personal representative of the Estate of
Ronald Lyle Goldman, Deceased,

Plaintiff,

vs.

ORENTHAL JAMES SIMPSON,

Defendant

Case No.: SC 036340

ORDER DENYING EX PARTE
APPLICATION FOR ORDER STAYING
SHERIFF'S SALE SET FOR APRIL 17, 2007

Date: April 10, 2007
Department: A
Hon. Gerald Rosenberg

On April 10, 2007, this case was called for hearing on an ex parte "Application for Order Staying Sheriff's Sale Set for April 17, 2007" by defendant/judgment debtor Orenthal James Simpson. Having considered all moving and responding papers submitted and having heard and considered all oral arguments presented by the parties' respective counsel at the hearing on this matter, the Court hereby denies the application.

1 On March 13, 2007, this Court entered an order that, pursuant to Code of Civil Procedure
2 Section 701.530, the Sacramento County Sheriff shall sell all right, title, and interest of
3 ORENTAL JAMES SIMPSON in and to the HarperCollins Publishers, Inc. contract, dated
4 05/08/06, and all rights therein. ORENTAL JAMES SIMPSON now brings this ex parte
5 application to stay that sale due to a pending motion to vacate the renewal of judgment and quash
6 enforcement proceedings scheduled for May 8, 2007. FREDERIC GOLDMAN opposes the
7 application arguing that the Court cannot stay an order of execution pursuant to the holdings in
8 Del Riccio v. Superior Court (1952) 115 Cal.App.2d 29 and California Commerce Bank v.
9 Superior Court (1992) 8 Cal.App.4th 582.

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11 **Jurisdiction to Issue Stay:** Del Riccio is distinguishable from the instant case. In Del
12 Riccio, the sheriff levied on a bank account and obtained the funds. The writ had been fully
13 executed and the only duty that remained for the sheriff was to turn over the money to the
14 judgment creditor. The Del Riccio court held that when a writ of execution has been regularly
15 issued and executed, the money collected by the sheriff is property of the judgment creditor, not
16 the debtor, and the court could not order a stay of execution which would deprive the creditor of
17 ownership and use of the money collected. (Del Riccio v. Superior Court, supra, 115 Cal.App.2d
18 at p. 31.) While the code provided for the stay of execution, it was not proper because the court
19 could not, by ordering a stay, “undo what had already been done.” (Id.)

20 In this case, the order and writ of execution have been issued, but the sale has not yet
21 occurred. GOLDMAN is not currently the owner of any right, title or interest in the
22 HarperCollins agreement and, as such, would not be deprived of any such ownership if a stay
23 was issued. If a stay was issued here, the Court would not be “undoing” anything, just
24 postponing the sale. Therefore, GOLDMAN’s argument that this Court lacks jurisdiction to
25 issue the stay requested is not well taken. The true issue is whether SIMPSON has established
26 proper grounds for the stay.

1 **No Substantive Grounds for Issuance of a Stay:** The Court finds that SIMPSON has
2 failed to meet his burden of establishing a likelihood of prevailing on the merits of his motion to
3 vacate the renewal of judgment and quash enforcement proceedings. SIMPSON argues that the
4 judgment renewal on September 21, 2006 is invalid because he was a resident of Florida at the
5 time and, as such, California had no legal basis to assert personal jurisdiction over him.
6 However, SIMPSON has failed to establish that he has timely sought relief from the renewal of
7 judgment, that the proper procedure was not followed by GOLDMAN, or that the judgment
8 could not be renewed because SIMPSON moved to Florida.

9 The jurisdiction of a court is continuing. Once the court has acquired jurisdiction over
10 the parties and subject matter of the case, its jurisdiction continues until the court has done all
11 that it can do to exercise that jurisdiction to determine all of the issues involved and to grant such
12 complete relief as is within its jurisdictional power to grant. A trial court retains continuing
13 jurisdiction after the final judgment as allowed by the judgment itself or by statute or rule. In
14 this case, Code of Civil Procedure Sections 683.110, et seq., specifically provide the procedure
15 for extension of the period of enforceability of a money judgment.

16 A judgment may be renewed simply by filing an application for renewal with the court in
17 which the judgment was entered. (CCP § 683.120(a).) The judgment creditor must serve notice
18 upon the judgment debtor that the judgment has been renewed. The judgment debtor then has 30
19 days to file a noticed motion to vacate the renewed judgment. If the motion is not timely made,
20 the renewed judgment is enforceable as entered. (CCP § 683.170(b).) The motion to vacate can
21 be made on any ground that would be a defense to an independent action on the judgment,
22 including a claim that the amount of the renewed judgment is incorrect. (CCP § 683.170(a); see
23 Fidelity Creditor Service, Inc. v. Browne (2001) 89 Cal.App.4th 195, 203–204—court erred in
24 denying motion to vacate renewed judgment based on undisputed failure to serve summons and
25 complaint for action; Timberline, Inc. v. Jaisinghani (1997) 54 Cal.App.4th 1361, 1366–1367—
26 court erred in denying motion to vacate based on corporation's suspension for failing to pay
27 taxes, precluding its use of state legal process to renew judgment.) The judgment debtor bears
28 the burden of proving, by a preponderance of the evidence, that he or she is entitled to relief

1 under statute governing motions to vacate renewal of a judgment. (Fidelity Creditor Service,
2 Inc. v. Browne, supra, 89 Cal.App.4th at p. 199.)

3 In this case, the original judgment was entered on March 10, 1997. The judgment was
4 renewed on September 21, 2006 and SIMPSON does not deny that he was properly served with a
5 notice of renewal of judgment. SIMPSON's motion to vacate renewal of judgment was not filed
6 until April 10, 2007 and no authority has been cited establishing that a valid judgment cannot be
7 renewed against the judgment debtor simply because he has changed his state of residence in the
8 interim. SIMPSON does not dispute that this Court had jurisdiction over him while the
9 underlying action was pending and the original judgment entered on March 10, 1997. Therefore,
10 no ground has been provided to support the application to stay the Sheriff's sale set for April 17,
11 2007 is denied.

12
13 **CONCLUSION**

14 IT IS THEREFORE ORDERED that, for the foregoing reasons, the ex parte Application
15 for Order Staying Sheriff's Sale Set for April 17, 2007 by Orenthal James Simpson is DENIED.

16 Dated: 4-10-07

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20 Hon. Gerald Rosenberg
21 Judge of the Superior Court
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