

IN THE COMMON PLEAS COURT, FRANKLIN COUNTY, OHIO

LORI D. MEYERS, et al.	:	
	:	
Plaintiffs	:	
	:	Case No. 16CV010186
v.	:	
	:	Judge Chris M. Brown
HADSELL CHEMICAL PROCESSING, LLC, et al.	:	
	:	
Defendants.	:	

PLAINTIFFS’ MOTION FOR AMERCEMENT

Now come the Plaintiffs, Lori D. Meyers (“Meyers”) and Christopher L. Yerington (“Yerington”), individually and in their capacity as the owner and beneficiary of their respective self-directed IRA account(s) (hereafter collectively “Plaintiffs”), by and through their undersigned counsel, and hereby move this Court for an order and judgment of amercement pursuant to Ohio Revised Code §2707.01 et seq., as against Charles S. Reader, Sheriff of Pike County, for:

- (i) \$1,000; and
- (ii) The total amount of the Plaintiffs’ judgment herein (as defined below) “Judgment Amount”); and
- (iii) Ten percent (10%) of the Judgment Amount.

A Memorandum in Support is attached hereto.

Respectfully submitted,

/s/ Richard T. Ricketts
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Attorney for Plaintiffs

MEMORANDUM IN SUPPORT

I. PROCEDURAL BACKGROUND

1. The Plaintiffs filed their Complaint in this matter on October 26, 2016 (“Complaint”).

2. On October 27, 2016, this Court entered judgment as against the Defendants Hadsell Chemical Processing, LLC (“HCP”) and Relevant Compounding, LLC (“Relevant”) (collectively “Defendants”) as follows:

- a. As to Count Two of Plaintiffs’ Complaint, judgment in favor of the Meyers SDIRA as against Defendants HCP, Relevant, and Walton, jointly and severally, in the amount of Seven Hundred Forty-Eight Thousand Five Hundred One Dollars and Fifty-Five Cents (\$748,501.55); plus interest accruing thereon from September 30, 2016, at 18% per annum, until paid in full; and all other amounts provided for under the Third Promissory Note including but not limited to reasonable legal fees and expenses and court costs.
- b. As to Count Three of Plaintiffs’ Complaint, judgment in favor of the Yerington SDIRA as against Defendants HCP, Relevant, and Walton, jointly and severally, in the amount of Seven Hundred Forty-Eight Thousand Five Hundred One Dollars and Twenty-Four Cents (\$748,501.24); plus interest accruing thereon from September 30, 2016, at 18% per annum, until paid in full; and all other amounts provided for under the Fourth Promissory Note including but not limited to reasonable legal fees and expenses and court costs.
- c. As to Count Four of Plaintiffs’ Complaint, judgment in favor of the Meyers SDIRA as against Defendants Relevant and Walton, jointly and severally, in the amount of One Hundred Forty-Nine Thousand Two Hundred Thirty Dollars and Twenty-One Cents (\$149,230.21); plus interest accruing thereon from September 30, 2016, at 18% per annum, until paid in full; and all other amounts provided for under the Fifth Promissory Note including but not limited to reasonable legal fees and expenses and court costs.
- d. As to Count Five of Plaintiffs’ Complaint, judgment in favor of the Meyers SDIRA as against Defendants HCP, Relevant, and Walton, jointly and severally, in the amount of One Million One Hundred Thirty-Five Thousand Fifty-Five Dollars and Sixty-Eight Cents (\$1,135,055.68); plus interest accruing thereon from September 30, 2016, at 20% per annum, until paid in full; and all other amounts provided for under the Seventh Promissory Note including but not limited to reasonable legal fees and expenses and court costs, credited by all amounts paid in respect of the First, Second and Third Promissory Notes; and

- e. As to Count Six of Plaintiffs' Complaint, judgment in favor of the Yerington SDIRA as against Defendants HCP, Relevant, and Walton, jointly and severally, in the amount of Seven Hundred Forty-Nine Thousand Four Hundred Sixty-Five Dollars and Forty-Four Cents (\$749,465.44); plus interest accruing thereon from September 30, 2016, at 20% per annum, until paid in full; and all other amounts provided for under the Eighth Promissory Note including but not limited to reasonable legal fees and expenses and court costs, credited by all amounts paid in respect of the Fourth Promissory Note.

Collectively, the "Judgments Amount".

3. On or about October 31, 2016, the Clerk of this Court issued a Certificate of Judgment to Pike County, Ohio, as against the Defendants for the Judgment.

4. On November 3, 2016, the Certificate of Judgment was filed with the Clerk of Courts of Pike County, Ohio.

5. On November 8, 2016, Plaintiffs filed a Praecipe for a Writ of Execution with the Pike County Clerk of Courts requesting that a Writ of Execution ("Writ") be issued to the Sheriff of Pike County, Charles S. Reader ("Sheriff"), to levy upon, tag and sale all assets of the Debtor, including but not limited to, all of the personal property of the Defendants.

6. On November 9, 2016, the Pike County Clerk of Courts issued the Writ to the Pike County Sheriff.

7. The Sheriff has neglected or refused to execute the Writ, has not returned an inventory of personal property levied upon or tagged, and/or returned any money collected or received therefrom (See Pike County Docket appended hereto as **Exhibit A**).

8. On multiple occasions, the Pike County Sheriff's office has been contacted by counsel for the Plaintiffs to determine the status of and remind them of their ongoing obligations pursuant to the Writ.

9. The Sheriff has neglected or refused to execute upon the Writ.

10. The Sheriff has not timely executed upon the Writ.
11. The Sheriff has failed to provide a return of the Writ.
12. The Sheriff has failed to file and inventory of the personal property attached pursuant to the Writ.
13. The Sheriff has neglected or refused to sell the personal property of the Defendants.
14. The Sheriff has neglected or refused to pay over the money collected from the Writ.
15. The Sheriff has failed to levy upon the Defendants' real estate.
16. The Sheriff has not timely satisfied his duties as provided for and required by §§2329.01 et seq.
17. The Plaintiffs have been damaged by the Sheriff's errors or omissions and are entitled to be amerced for the entire Judgment Amount, plus all amounts provided by statute.

II. LAW AND ARGUMENT

Ohio Revised Code §2707.01 provides as follows:

If an execution or order of sale directed to an officer comes to his hands to be executed, and he neglects or refuses to execute it; or if he neglects or refuses to sell property of any kind which, by a writ or order, he is directed to sell; or fails to call an inquest, or to return to the clerk's office a copy of the certificate of appraisement made by the inquest; or neglects to return to the proper court an execution or order of sale to him directed on or before the return day thereof; or neglects to return a correct inventory of personal property taken on execution unless he returns that the amount of the judgment, including costs, has been paid to him; or neglects, on demand, to pay to the person entitled thereto, money by him collected or received for the use of such person; or neglects or refuses, on demand, to pay the judgment debtor all money by him received on sale made, beyond what is sufficient to satisfy the writ or order of sale, with interest and costs, on motion in court, and notice thereof, in writing, as provided in section 2707.02 of the Revised Code, such officer shall be amerced in the amount of such judgment, including costs, with ten per cent thereon, to and for the use of the plaintiff or defendant.

Emphasis added.

In addition, Ohio Revised Code §2707.02 provides as follows:

If the officer resides in the county in which the motion mentioned in section 2707.01 of the Revised Code is made, notice shall be served upon him at least two days before it is heard. If he is an officer of another county, the notice shall be served upon him, or left at his office, at least fifteen days before the first day of the term at which the motion will be heard, or sent to him by mail at least sixty days before such day.

Further, Ohio Revised Code §2707.03 provides in pertinent part as follows:

If an officer fails to execute a summons, order, execution, or other process directed to him, or to return it, as required by law, unless he makes it appear, to the satisfaction of the court, that he was prevented by unavoidable accident from so doing, he shall be amerced, upon motion and notice, as provided in sections 2707.01 and 2707.02 of the Revised Code, in a sum not exceeding one thousand dollars, and be liable to the action of any person aggrieved by such failure.

Amercement under Ohio Revised Code §2707.03 is penal in nature. Rodgers v. Rodgers (4th Dist. Pike Cty. 1991), 74 Ohio App.3d 580, 583; citing Langdon v. Summer's Admir. (1859), 10 Ohio St. 77, paragraph two of the syllabus. "As such, the penalty is meant to remedy 'official delinquency' rather than restore the status quo to the injured party." Rodgers at 583; citing Moore v. McClief (1864), 16 Ohio St. 51, 53-54. "(T)he amercement statute R.C. 2707.01 does not require a party to demonstrate harm. The statute simply requires the court to amerce officers who neglect or refuse to carry out executions." Rodgers v. Rodgers (4th Dist. Pike Cty. 1989), 1989 Ohio App. LEXIS 3009, *5 (see attached **Exhibit B**). Although the statute may seem archaic to some, the Ohio Supreme Court has said that Revised Code Chapter 2707 should continue to be enforced as written by the General Assembly. Ryan v. Carter (1993), 67 Ohio St.3d 568, 569 (Finding amercement was proper against sheriff from another county in a Franklin County matter).

On November 9, 2016, the Clerk of Courts of Pike County issued a writ of execution to the Sheriff to execute the Writ and levy upon the assets of the Defendants including all personal property of the Defendants located in Pike County. The Sheriff, without valid excuse, has neglected and refused to complete the execution and make proper return of the Writ as directed.

Pursuant to Ohio Revised Code §2707.01 et seq, the Sheriff should be amerced for the total of the Judgment Amount. The Sheriff shall then be subrogated to and can pursue its remedies as against the Defendants as provided for in Ohio Revised Code §2707.07.

WHEREFORE, the Plaintiffs request that this Court amerce the Sheriff of Pike County, Charles S. Reader, for \$1,000 plus the entire Judgment Amount, plus ten percent (10%) thereon, all as provided for in Ohio Revised Code §2707.01 et seq.

Respectfully submitted,

/s/ Richard T. Ricketts
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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was electronically filed with the Court on the 25th day of January, 2017 and will be served by the Court’s ECF filing system upon the following:

Gregory H. Melick
Luper Neidenthal & Logan
50 West Broad Street, Suite 1200
Columbus, Ohio 43215
Attorney for Defendant,
Timothy J. Sherman

Craig A. Allen
31 S. 3rd Street, PO Box 1
Ironton, Ohio 45638
Attorney for Defendant,
Scott D. Evans

Marion H. Little, Jr.
Zeiger, Tigges & Little LLP
3500 Huntington Center
41 South High Street
Columbus, Ohio 43215
Attorney for Defendants, Donald A.
Hadsell and Hadsell Development, LLC

The undersigned hereby further certifies that a copy of the foregoing was served by Federal Express, by certified mail, return receipt requested and by regular U.S. mail upon the following, this 25th day of January 2017:

Sheriff Charles S. Reader
116 S. Market Street
Waverly, Ohio 45690

Pike County Prosecutor
100 East 2nd Street
Waverly, Ohio 45690

/s/ Richard T. Ricketts
Richard T. Ricketts, Esq. (0033538)

2016CIV000367 MEYERS, LORI D VS. HADSELL CHEMICAL PROCESSING LLC

Case Type: CIVIL	Action: OTHER CIVIL
Case Status: Open	File Date: 11/08/2016
Case Judge: DEERING, RANDY D	

All Information Party Docket Disposition

Party Information

MEYERS, LORI D - Plaintiff

DOB _____ Address 2558 ONANDAGA DR Alias _____
 Disposition _____ UPPER ARLINGTON _____
 Disp Date _____ OH 43221 _____

Party Attorney

Attorney RICKETTS, RICHARD T
 Bar Code 0033538
 Address RICKETTS CO LPA
 50 HILL ROAD SOUTH
 PICKERINGTON, OH 43147
 Phone _____

YERINGTON, CHRISTOPHER LEE - Plaintiff

DOB _____ Address 2558 ONANDAGA DR Alias _____
 Disposition _____ UPPER ARLINGTON _____
 Disp Date _____ OH 43221 _____

Party Attorney

Attorney RICKETTS, RICHARD T
 Bar Code 0033538
 Address RICKETTS CO LPA
 50 HILL ROAD SOUTH
 PICKERINGTON, OH 43147
 Phone _____

HADSELL CHEMICAL PROCESSING LLC - Defendant

DOB _____ Address 311 S 3RD ST Alias _____
 Disposition _____ IRONTON, OH 45638 _____
 Disp Date _____

Party Attorney _____

RELEVANT COMPOUNDING LLC - Defendant

DOB _____ Address 9329 ST RT 229 STE A Alias _____
 Disposition _____ WAVERLY, OH 45690 _____
 Disp Date _____

Party Attorney _____

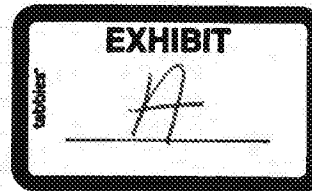
WALTON, JR, ROBERT W - Defendant

DOB _____ Address 224 SIMON MILLER RD Alias _____
 Disposition _____ WHEELERSBURG, OH _____
 Disp Date _____ 45694 _____

Party Attorney _____

Docket Information

Date	Docket Text
11/08/2016	CIVIL FILING FEES Receipt: 27170 Date: 11/08/2016
11/08/2016	PRECIPE FOR A WRIT OR ORDER OF EXECUTION FILED
11/08/2016	CIVIL DEPOSIT Receipt: 27170 Date: 11/08/2016
11/09/2016	WRIT OF POSSESSION



Case Disposition

Disposition	Date	Case Judge
Undisposed		DEERING, RANDY D



Neutral

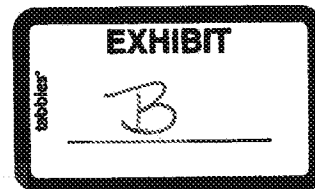
As of: January 10, 2017 10:48 AM EST

Rodgers v. Rodgers

Court of Appeals of Ohio, Fourth Appellate District, Pike County

July 25, 1989, Decided

Case No. 420



Reporter

1989 Ohio App. LEXIS 3009 *; 1989 WL 86268

MARY JANE RODGERS, Plaintiff-Appellant v.
KENNETH RODGERS, Defendant and SHERIFF
JAMES DIXON, Defendant-Appellee

Disposition: [*1] JUDGMENT REVERSED & CAUSE
REMANDED FOR FURTHER PROCEEDINGS
CONSISTENT WITH THIS OPINION

Core Terms

amercement, assigned error, license

Case Summary

Procedural Posture

Appellant judgment creditor challenged a decision from the Pike County Common Pleas Court (Ohio), which denied her motion to amerce appellee, a county sheriff, pursuant to Ohio Rev. Code Ann. § 2707.01. Defendant debtor was not a party to the appeal.

Overview

The creditor had a writ of execution issued against a debtor's trailer. The sheriff's return, dated several months later, showed that he attached the license plates; however, the debtor went to the sheriff and got his plates back. The court reversed and held that the amercement statute, Ohio Rev. Code Ann. § 2707.01, did not require the creditor to demonstrate harm but merely required that the trial court amerce officers who neglected or refused to carry out lawful executions against property. Here, the creditor established a prima facie case of amercement. The sheriff was ordered to levy on the debtor's trailer, the return demonstrated that the sheriff failed to execute on the goods and merely

attached the license plates and then inexplicably returned them to the debtor. The burden then fell on the sheriff to present a defense, and the trial court improperly dismissed the case under Ohio R. Civ. P. 42(B)(2) when the sheriff presented no evidence either against the motion to amerce or in favor of his motion to dismiss.

Outcome

The court reversed the trial court's judgment and remanded the cause for further proceedings.

LexisNexis® Headnotes

Civil Procedure > Dismissal > Involuntary
Dismissals > General Overview

HN1 Ohio R. Civ. P. 41(B)(2) permits the court to dismiss a non-jury action upon motion by the defendant after the plaintiff's case when upon the facts and the law the plaintiff has shown no right to relief. When ruling on a Rule 41(B)(2) motion, the court need not weigh the evidence in a light most favorable to the plaintiff. The court need only determine whether the plaintiff has demonstrated his case by a preponderance of the evidence.

Civil Procedure > Judgments > Enforcement &
Execution > General Overview

Civil Procedure > Judgments > Enforcement &
Execution > Writs of Execution

Civil Procedure > ... > Writs > Ancillary Writs > General
Overview

Civil Procedure > ... > Writs > Ancillary Writs > Writs of
Execution

Governments > Local Governments > Employees &
Officials

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HN2 *Ohio Rev. Code Ann. § 2707.01* provides, in part, that: If an execution or order of sale directed to an officer comes into his hands to be executed, and he neglects or refuses to execute it, such officer shall be amerced in the amount of such judgment.

Evidence > Burdens of Proof > General Overview

Governments > Courts > Court Personnel

HN3 The amercement statute, *Ohio Rev. Code Ann. § 2707.01*, does not require a party to demonstrate harm. Section 2707.01 simply requires the court to amerce officers who neglect or refuse to carry out executions. Where a movant has established a prima facie case of amercement, the burden then falls upon the opposing party to present a defense demonstrating the case does not fall within the spirit of the amercement statutes. Although the amercement statute does not require a movant to prove injury, bad faith, or lack of a return within 60 days, the party opposing a motion to amerce may present a defense negating the existence of injury, bad faith, and lack of a return in an effort to convince the court the case does not fall within the spirit of the amercement statute.

Civil Procedure > Judgments > Relief From Judgments > General Overview

Civil Procedure > Appeals > Appellate Jurisdiction > Final Judgment Rule

HN4 Litigants may only appeal errors in a court's judgment, not errors in a judge's comments.

Counsel: Linda Sutton, Chillicothe, Ohio, COUNSEL FOR APPELLANT.

Randall Lambert, Ironton, Ohio, Mary Bone Kunze, Jackson, Ohio, counsel for Defendant Kenneth Rodgers, COUNSEL FOR APPELLEE.

Judges: Homer E. Abele, J., Stephenson, J.: Concur in Judgment Only Grey, J.: Concur ni Judgment & Opinion

Opinion by: ABELE

Opinion

OPINION & JUDGMENT ENTRY

HOMER E. ABELE, P.J.:

This is an appeal from a Pike County Common Pleas Court judgment denying appellant's motion to amerce

Pike County Sheriff James Dixon pursuant to R.C. 2707.01.

We reverse.

ASSIGNMENT OF ERROR I

"THE PIKE COUNTY COMMON PLEAS COURT DECISION GRANTING THE SHERIFF'S MOTION TO DISMISS PURSUANT TO CIVIL RULE 42(B)(2) WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND INCORRECT AS A MATTER OF LAW."

Civ. R. 41(B)(2) HN1 permits the court to dismiss a non-jury action upon motion by the defendant after the plaintiff's case when "upon the facts and the law the plaintiff has shown no right to relief." When ruling on a Civ. R. 41(B)(2) motion, the court need not weigh the evidence in a light most favorable to the plaintiff. Jacobs v. Board of County Commrs. (1971), 27 F*2d Ohio App. 2d 63, 65. The court need only determine whether the plaintiff has demonstrated his case by a preponderance of the evidence. *Id.*

Appellant made her motion to amerce pursuant to R.C. 2707.01 which provides in pertinent part:

HN2 "If an execution or order of sale directed to an officer comes into his hands to be executed, and he neglects or refuses to execute it, * * * such officer shall be amerced in the amount of such judgment * * *"

(Emphasis Added)

Appellant presented evidence upon the motion by asking the court to take judicial notice of the writ of execution and the return in the record. The writ of execution stated:

"We command you to levy on and take into custody the goods and chattels of Kenneth Rodgers that can be found in your balliwick to the amount of \$ 6,350.00 judgment which Mary Jane Rodgers recovered against the said Kenneth Rodgers in our Court of Cohn Pleas on May 8, 1987.

Such goods and chattels consist of one White International semi trailer, serial number 1HTE 23257B6A14610 and one Fruehauf van trailer, serial number MXS206-974, which may be found at either 1136 Howard Road, Waverly, Ohio, or 122 Circle View Drive, Waverly, Ohio.

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Make return of this execution [*3] together with your proceedings hereon with all possible speed, as we have reason to believe the goods may shortly be removed from the county."

The sheriff's return, dated October 16, 1987, stated:

"Received this writ on the 21st day of August 1987 at 3:01 o'clock P.M., and pursuant to its command: 8:31 Sheriff attached license tag advised not to move, defendant not available to be served. On 9-2-87 Defendant Kenneth Rodgers came to the sheriff's dept. and I served copies of Notice to claim exemptions and Notice for hearing. On 9-3-87 Sheriff released license plates to defendant and advised not to leave State. On 9-21-87 received Motion & Notice from Common Pleas Court for Hearing on 10-30-87 @9:00AM. was served the same on September 18, 1987."

Appellant moved the court to dismiss appellant's motion to amerce. Appellee argued 1.) the amercement statute must be strictly construed, 2.) amercement must only be granted in cases which fall within both the letter and the spirit of the statute, 3.) appellee's removal of the license plates constituted a valid levy of the property, 4.) appellee's good faith prevents an amercement, and 5.) appellee, following his normal course of conduct, [*4] delayed proceeding on the execution when Kenneth Rodgers filed his request for an exemption hearing.

Appellee, however, presented no evidence either against the motion to amerce or in favor of his motion to dismiss. Appellee based his argument below and appellee bases his argument on appeal on facts not properly in evidence before the court. The only facts properly in evidence are the writ of execution and the return.

Based on the facts properly in evidence, we conclude the court below erroneously dismissed appellant's motion to amerce. Appellant established a prima facie case of amercement. The sheriff was ordered to levy on Kenneth Rodgers' semi trailer and van trailer. The return demonstrates the fact the sheriff failed to execute on the goods, but rather merely attached "a license tag" or "license plates" on August 31, 1987, and, inexplicably, returned the tag or plates to Kenneth Rodgers on September 3, 1988.

Appellant's first assignment of error is sustained.

ASSIGNMENT OF ERROR II

"PIKE COUNTY COMMON PLEAS COURT ERRED AS A MATTER OF LAW BY FINDING THAT PLAINTIFF

HAD A BURDEN OF SHOWING THAT SHE WAS HARMED BY THE SHERIFF'S ACTIONS AND THAT SHE WOULD HAVE RECOVERED MONEY HAD [*5] THE SHERIFF CARRIED OUT A SALE AND EXECUTION."

Appellant correctly notes HN3 the amercement statute R.C. 2707.01 does not require a party to demonstrate harm. The statute simply requires the court to amerce officers who neglect or refuse to carry out executions. If we place a burden upon the movant to demonstrate harm, we would vary the clear language of the statute.

Appellee cites two Ohio Supreme Court decisions from the nineteenth century which state a sheriff is amercable only in cases which come within the spirit as well as the letter of the law. Conkling v. Parker (1859), 10 Ohio St. 28; Langdon v. Summers (1859), 10 Ohio St. 878. Appellee also cites one Tuscarawas County Common Pleas Court decision from 1947 which held a sheriff may not be amerced where no injury has resulted. Mine Safety Appliances Co. v. Best (C.P. 1947), 36 O.O. 361, 362. None of those cases, however, place a burden upon a movant to demonstrate harm. Further, the Tuscarawas County Common Pleas Court case which mentions injury is not binding on our court.

We find that where a movant has established a prima facie case of amercement, the burden then falls upon the opposing party to present [*6] a defense demonstrating the case does not fall within the spirit of the amercement statutes.

Appellant's second assignment of error is sustained.

ASSIGNMENT OF ERROR III

"PIKE COUNTY COMMON PLEAS COURT ERRED BY FINDING THAT THE SHERIFF MAY NOT BE AMERCED FOR FAILURE TO COMPLETE AN EXECUTION WHEN THERE HAS BEEN NO PROOF OF ANY RESULTING INJURY AND THE SHERIFF ACTED IN GOOD FAITH AND MADE HIS RETURN ON SAID EXECUTION WITHIN SIXTY (60) DAYS AS REQUIRED BY LAW."

Here again appellee relies upon the 1947 Tuscarawas County Common Pleas Court case, Mine Safety Appliances Co. v. Best (C.P. 1947), 36 O.O. 361. At 362, that court wrote:

"* * * While a sheriff is justified in executing a writ that is regular on its face and which may have been wrongfully issued, he may not be amerced for failure to complete an execution where no injury has resulted, if he has

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acted in good faith, and if he has made a return within sixty days as required by Section 11712 General Code."

Procedure, Exceptions.

Again, we note that case is not binding on our court. We further note neither that case nor the amercement statute R.C. 2707.01 requires a movant to prove injury, bad faith, or lack of a return within sixty days.

End of Document

The party [*7] opposing the motion to amerce may, however, present a defense negating the existence of injury, bad faith, and lack of a return in an effort to convince the court the case does not fall within the spirit of the amercement statute. See, Conkling v. Parker (1859), 10 Ohio St. 28; Langdon v. Summers (1859), 10 Ohio St. 878.

Appellant's third assignment of error is overruled.

ASSIGNMENT OF ERROR IV

"PIKE COUNTY COMMON PLEAS COURT ERRED AS A MATTER OF LAW BY FINDING THAT THE SHERIFF HAD NO AUTHORITY TO PROCEED WITH EXECUTION AFTER THE CLAIM FOR EXEMPTIONS AND THE REQUEST FOR RELIEF FROM JUDGMENT WERE FILED."

Appellant's fourth assignment of error erroneously implies the court made a finding that the sheriff had no authority to proceed with the execution after Kenneth Rodgers filed a claim for exemptions and a request for relief from judgment. While we acknowledge the court made several comments in that regard at the hearing, we note HN4 litigants may only appeal errors in a court's judgment, not errors in a judge's comments. Economy Fire & Cas. Co. v. Craft General Contractors, Inc. (1982), 7 Ohio App. 3d 335.

Appellant's fourth assignment of error is overruled.

It [*8] is ordered that (appellant) recover (appellee) the costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the *Pike County Common Pleas Court* to carry this judgment into execution.

Any Stay previously granted by this Court is hereby terminated as of the date of filing of this Entry.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate