

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0586-21**

JAYSON HINES,

Plaintiff-Respondent,

v.

KELVIN GRIFFIN,

Defendant-Appellant.

Submitted June 2, 2022 – Decided June 13, 2022

Before Judges Geiger and Susswein.

On appeal from the Superior Court of New Jersey, Law
Division, Essex County, Docket No. DC-022367-11.

Kelvin Griffin, appellant pro se.

Respondent has not filed a brief.

PER CURIAM

Defendant Kelvin Griffin appeals a Special Civil Part wage execution order entered on September 24, 2021. We stay the wage execution and remand for further proceedings.

We take the following facts from the limited record on appeal. On October 7, 2011, plaintiff Jayson Hines obtained judgment against defendant in the amount of \$6,000 plus costs and fees. According to the wage execution order, the total amount due was \$6,684.70, inclusive of execution and court officer fees. Payroll deductions began on November 5, 2021.

Defendant objects to the wage execution, claiming that following a trial, the case was dismissed with prejudice on January 3, 2012, as reflected in the Special Civil Part Summary issued by the court.

Defendant claims he had not received any information regarding the case after the January 2012 dismissal until he received an email from his employer on October 14, 2021, informing him of the wage execution order.

The record on appeal does not reflect whether defendant was served with a notice of application for the wage execution, whether he filed a timely objection to the wage execution, whether an objection hearing took place, and if so, the decision rendered by the court.

Defendant asserts that he was informed by court staff that the audio recording of the January 12, 2012 proceeding was no longer available because it was destroyed pursuant to the court's five-year retention schedule. As a result,

defendant is unable to provide a transcript of that proceeding. In addition, respondent has not filed a brief.¹

On appeal, defendant argues that the wage execution order was entered in error because the case was dismissed with prejudice on January 3, 2012, and he received no notice that the dismissal was amended. He seeks a remand to terminate the wage execution and reinstate the dismissal with prejudice.

Because of the limited record on appeal and the conflicting information contained in the Special Civil Part Summary and wage execution order, we are unable to discern with any certainty what took place after the judgment was entered against defendant in October 2011. In these circumstances we cannot determine whether defendant's argument has merit. We therefore remand to the trial court to conduct a hearing to determine if the case was in fact dismissed with prejudice on January 3, 2012, whether the dismissal was subsequently vacated on notice to defendant, whether defendant was properly served with a notice of application for wage execution, whether the wage execution order should be vacated, and whether the dismissal reinstated. We stay the wage execution order pending the outcome of the hearing on remand.

¹ Defendant was informed by an unnamed individual that plaintiff died in or about March 2020. The record does not reflect if the wage execution application was prosecuted by plaintiff or the representatives or heirs of his estate.

Remanded for further proceeding consistent with this opinion. We do not retain jurisdiction.

I hereby certify that the foregoing is a true copy of the original on file in my office.

A handwritten signature in black ink, appearing to be 'JWA', is written over the printed text of the certification.

CLERK OF THE APPELLATE DIVISION