

IN THE SUPREME COURT OF OHIO

MITCHELL SPERO, TRUSTEE OF THE)	On Appeal from the Summit
MANNY AND SYDELLE SPERO)	County Court of Appeals,
DYNASTY TRUST, et al.)	Ninth Appellate District
)	
Plaintiffs-APPELLEES)	
)	
vs)	Court of Appeals
)	Case No. 27569
MARTHA AVNY, et al.)	
)	
Defendants-APPELLANTS)	

NOTICE OF APPEAL OF APPELLANTS

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Notice of Appeal of Appellants-Defendants

Appellants, Martha Avny, Sam Avny, Project Light, Inc., Project Light, LLC and Design Light, Inc. give notice of appeal to the Supreme Court of Ohio from the judgment of the Summit County Court of Appeals, Ninth Appellate District, entered in the Court of Appeals Case No. CA- 27569, on April 21, 2015.

This case raises a substantial constitutional question and is one of public or great general interest.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent, via Regular United States Mail, postage pre-paid on June 2, 2015:

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STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

COURT OF APPEALS
DANIEL M. HERRIGAN

MITCHELL SPERO, TRUSTEE, ET
AL.

2015 APR 2 | AM 10:14

SUMMIT COUNTY
CLERK OF COURTS

C.A. No. 27569

Appellees

v.

MARTHA AVNY, ET AL.

Appellants

JOURNAL ENTRY

Appellees have moved to dismiss this appeal as moot because the judgment has now been satisfied. Appellants have responded in opposition, arguing that the satisfaction was involuntary because the money was taken by garnishment and they sought a stay.

As a general rule, courts will not resolve issues that are moot. *Miner v. Witt*, 82 Ohio St. 237 (1910), syllabus. "It is a well-established principle of law that a satisfaction of judgment renders an appeal from that judgment moot. 'Where the court rendering judgment has jurisdiction of the subject-matter of the action and of the parties, * * * and the judgment is voluntarily paid and satisfied, such payment puts an end to the controversy, and takes away from the defendant the right to appeal[.]'" (Citations omitted.) *Blodgett v. Blodgett*, 49 Ohio St.3d 243, 245 (1990).

A judgment is voluntarily satisfied when the appellant neglects to obtain a stay of that judgment pending appeal. *See Wiest v. Wiegele*, 170 Ohio App.3d 700, 2006-Ohio-5348. Furthermore, "[s]atisfaction of judgment upon garnishment of funds may be considered a voluntary payment * * *. *Spencer v. Kiowa Developing Co., Inc.* 9th Dist. Summit Nos. 19524, 19532, 2000 WL 15079 (Jan. 5, 2000).

Here, appellants sought and were granted a stay conditioned upon the posting of a supersedeas bond. Appellants failed to post the bond, however, and their bank account was garnished. Because appellants neglected to obtain the stay, the judgment is considered to have been voluntarily satisfied, and the matter is now moot. The motion to dismiss the appeal is granted.

The attempted appeal is dismissed. Costs are taxed to appellant.

The clerk of courts is ordered to mail a notice of entry of this judgment to the parties and make a notation of the mailing in the docket, pursuant to App.R. 30 and to provide a certified copy of the order to the clerk of the trial court.


Judge

Concur:
Whitmore, J.
Moore, J.