

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 21 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.