

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2730-10T3

ROBERT J. TRIFFIN,

Plaintiff-Appellant,

v.

COMMUNITY PRESCHOOL &
NURSERY, LLC, and SHANNEA DAKU,

Defendants-Respondents.

Argued November 28, 2011 - Decided December 6, 2011

Before Judges Sabatino and Fasciale.

On appeal from the Superior Court of New Jersey, Law Division, Special Civil Part, Essex County, Docket No. DC-020562-10.

Robert J. Triffin, appellant, argued the cause pro se.

Respondents have not filed a brief.

PER CURIAM

In this uncontested appeal, plaintiff Robert J. Triffin seeks review of an order of the Special Civil Part dated January 21, 2011 denying his motion to compel the turnover of funds held by PNC Bank ("PNC") in an account owned by a judgment debtor, defendant Community Preschool & Nursery, LLC ("Community

Preschool"). The trial court denied plaintiff's application, despite the fact that it was unopposed, because the PNC branch where Community Preschool does its banking is located in Pennsylvania. For the reasons that follow, we reverse and remand for the entry of an order granting the proposed turnover of funds to plaintiff.

The record contains these relevant facts. On July 12, 2007, plaintiff purchased forty-eight dishonored checks from Currency One, a check-cashing company in Vineland, New Jersey. Included among those checks was check number 1851, dated March 31, 2006. The check was issued by Community Preschool to the order of co-defendant Shannea Daku ("Daku") in the amount of \$455.66. The address of Community Preschool listed on the check was a certain street number on Frankford Avenue in Philadelphia, Pennsylvania. Daku's address listed on the check was a certain street number on Langdon Street, also in Philadelphia. However, the summons issued for Daku in the Special Civil Part used a different address in Newark, New Jersey. The check was drawn on an account that Community Preschool then had with National City Corporation, an Ohio bank that PNC acquired in 2008.

Daku endorsed the check in April 2006, and Currency One cashed the check. Subsequently, a stop payment request was issued on the check. The check was consequently dishonored, and

Currency One was unable to collect from the bank the funds that it had disbursed to Daku.

Having obtained an assignment¹ of the check from Currency One, plaintiff filed a complaint in the Special Civil Part against Community Preschool and Daku on July 9, 2010 to recover on the dishonored check. After service was apparently made on Daku in New Jersey and upon Community Preschool in Pennsylvania, the trial court granted plaintiff's motion for default judgment against Community Preschool on August 31, 2010, in the sum of \$839.64 which included the judgment amount, costs, attorney fees, and court fees.

On September 15, 2010, plaintiff requested that the trial court issue a writ of execution and bank levy in order to satisfy the judgment against Community Preschool. The clerk of the Special Civil Part in Essex County thereafter issued an "Execution Against Goods and Chattels" on September 27, 2010, directing Vincent Bove, a court officer, to levy on Community Preschool's property to satisfy the judgment. On December 23, 2010, Bove served PNC Bank with the levy.

¹ The assignment to plaintiff has not been challenged in this case, unlike other cases involving this plaintiff where the assignments were contested or found deficient. See, e.g., Triffin v. Bank of Am., 391 N.J. Super. 83, 85 (App. Div. 2007); Triffin v. Johnston, 359 N.J. Super. 543, 550 (App. Div. 2003).

In response to the bank levy, Tabatha Guzewicz, an employee with PNC's garnishment processing unit in Pittsburgh, Pennsylvania, wrote Officer Bove a letter in December 2010. She advised Bove in her letter that PNC had placed a hold upon Community Preschool's accounts for \$839.64.

Thereafter, in January 2011, plaintiff filed a motion in the Special Civil Part seeking the turnover of the levied bank funds. No opposition to the turnover motion was filed.

After reviewing the turnover motion on the papers, the Special Civil Part denied plaintiff's motion on January 21, 2011. In the brief comments included within the order, the court stated, without any legal citation, that the Superior Court of New Jersey "cannot order a bank located in Pennsylvania to turn over funds. Efforts to collect a New Jersey judgment in Pennsylvania must be made in the Pennsylvania [c]ourts."

On appeal, plaintiff argues that the trial court erred in finding that the New Jersey courts lacked jurisdiction in these circumstances to order a Pennsylvania bank to turn over funds. We agree with plaintiff that the trial court was mistaken in perceiving such a geographical restriction on its authority in this case. In fact, the Special Civil Part had both personal jurisdiction and subject matter jurisdiction to order PNC to turn over the funds in question to plaintiff.

We first consider the question of the trial court's personal jurisdiction over PNC. Two cardinal principles have consistently applied in the personal jurisdiction cases decided by the United States Supreme Court under the federal Due Process Clause since International Shoe Company v. Washington, 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95 (1945). First, "due process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it[.]" Id. at 316, 66 S. Ct. at 158, 90 L. Ed. at 102. Second, the minimum contacts must be of a nature and extent "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" Ibid. (quoting Milliken v. Meyer, 311 U.S. 457, 463, 61 S. Ct. 339, 343, 85 L. Ed. 278, 283 (1940)).

A "minimum contacts inquiry must focus on 'the relationship among the defendant, the forum, and the litigation.'" Lebel v. Everglades Marina, Inc., 115 N.J. 317, 323 (1989) (quoting Shaffer v. Heitner, 433 U.S. 186, 204, 97 S. Ct. 2569, 2580, 53 L. Ed. 2d 683, 698 (1977)). "In determining whether the defendant's contacts are purposeful, a court must examine the defendant's 'conduct and connection' with the forum state and determine whether the defendant should 'reasonably anticipate

being haled into court [in the forum state].'" Bayway Ref. Co. v. State Utils., Inc., 333 N.J. Super. 420, 429 (App. Div.), certif. denied, 165 N.J. 605 (2000) (alteration in original) (quoting World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297, 100 S. Ct. 559, 567, 62 L. Ed. 2d 490, 501 (1980)). Furthermore, "the existence of minimum contacts turns on the presence or absence of intentional acts of the defendant to avail itself of some benefit of a forum state." Waste Mgmt., Inc. v. Admiral Ins. Co., 138 N.J. 106, 126 (1994), cert. denied sub nom., WMX Techs., Inc. v. Canadian Gen. Ins. Co., 513 U.S. 1183, 115 S. Ct. 1175, 130 L. Ed. 2d 1128 (1995).

In this case, the Special Civil Part manifestly had personal jurisdiction over PNC. Although the PNC garnishment unit which responded to the levy is located in Pennsylvania, it is undisputed² that the bank has numerous branches in New Jersey and clearly performs business within this State. Additionally, the burden on PNC Bank in responding to this litigation — had it chosen to do so — would be minimal, given PNC's widespread presence in New Jersey. It is also undisputed that the bank intentionally avails itself of the benefits of doing business

² Apart from the fact that PNC's substantial presence in New Jersey is undisputed in this appeal, its business activities in this state are also a proper subject of judicial notice under N.J.R.E. 201.

throughout New Jersey. Thus, minimum contacts are adequately satisfied, and it does not offend the norms of fair play and substantial justice for the Superior Court to exercise personal jurisdiction over PNC.

The trial court likewise had subject matter jurisdiction over this matter. "A court lacks subject matter jurisdiction over a case if it is brought in an ineligible forum." Hoffman v. Supplements Togo Mgmt., LLC, 419 N.J. Super. 596, 606 (App. Div. 2011) (citing Peper v. Princeton Univ. Bd. of Trs., 77 N.J. 55, 65 (1978)). A plaintiff in state court generally has no duty to set forth the grounds for the exercise of subject matter jurisdiction, "because state courts are invested with general jurisdiction that provides expansive authority to resolve myriad controversies brought before them." Thompson v. City of Atlantic City, 190 N.J. 359, 378-79 (2007). "[S]ubject matter jurisdiction is presumed for courts of general jurisdiction unless proved otherwise[.]" Ibid. (citing Turner v. Bank of N. Am., 4 U.S. 8, 11 (4 Dall.), 1 L. Ed. 718, 719 (1799)).

Here, the trial court's authority to adjudicate this collection action and plaintiff's ensuing turnover motion clearly falls under the umbrella of our state court's general jurisdiction over subject matters not exclusively vested in the federal courts. After default judgment was entered against

Community Preschool as the debtor, the Special Civil Part Clerk in Essex County duly issued a writ of execution and bank levy upon the debtor's bank account, and an Essex County court officer duly served the levy on PNC. Following the levy, PNC implicitly recognized and submitted to this court's jurisdiction by placing a hold on Community Preschool's bank account.

PNC did not submit any papers to the trial court contesting jurisdiction to order the turnover of funds that PNC was holding in Pennsylvania. It is inconsequential that PNC's garnishment unit and the PNC branch at which Community Preschool apparently did its banking were in Pennsylvania, given the bank's integrated functions spanning numerous states. Once the trial court had subject matter jurisdiction over the lawsuit, it continued to have subject matter jurisdiction to grant plaintiff's turnover motion. We are aware of no legal authority or administrative directive that restrains the Special Civil Part from issuing the unopposed order requested here by plaintiff.

Reversed and remanded for the entry of an order of turnover consistent with this opinion.

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


CLERK OF THE APPELLATE DIVISION