

CLINT PHARMACEUTICALS, RESPONDENT

v.

NORTHFIELD URGENT CARE, LLC, APPELLANT

- UNPUBLISHED OPINION

Hooten, Judge.

"Appellant challenges the district court's denial of its motion to vacate a foreign judgment. Because respondent presented the district court with prima facie evidence of service upon appellant relative to the foreign court proceeding and appellant failed to meet its evidentiary burden to show that the foreign judgment was predicated on ineffective service of process, we affirm."

The appellant, Dr. Kevin Bardwell, in essence wants to void the judgment against him in Tennessee court. The respondent, Northfield Urgent Care, presented sufficient evidence of service to upon Dr. Bardwell in regards to the foreign judgment and Dr. Bardwell failed to show proof that that the foreign judgment was based on not being served a in a proper manner.

- explain - " respondent filed an action in Rice County District Court under the Uniform Enforcement of Foreign Judgments Act, Minn. Stat. §§ 548.26-.33 (2010), to enforce this judgment in Minnesota. Respondent served a garnishment summons and had approximately \$13,000 frozen in appellant's bank account."

Northfield Urgent Care, LLC filed an action in Minnesota to enforce the judgment that was ruled in their favor. A garnishment is a notice to a third party to hold money or property belonging to the person in debt(according to the court's verdict), the party being sued, as a means of paying back some or all of the money to the plaintiff. The \$13,000 in Dr. Bardwell's account was frozen due to the fact that he had refused to accept deliver of or pay for the product he had received from Northfield in addition to the other damages and attorney fees that Northfield incurred from litigation in regards to this matter.

- explain - "The letter further declared that appellant would not appear at the December 6, 2010 hearing because Tennessee did not have personal jurisdiction over appellant and because service of process had been ineffective."

Dr. Bardwell did not intend to appear in the Tennessee court because the Tennessee court did not have personal jurisdiction over him and because he was not served correctly. Dr. Bardwell was served correctly as the summons was delivered & signed for at his place of business. Also, minimum contact was established due to Dr. Bardwell conducting business with Northfield Urgent Care, LLC as defined in *International Shoe Co. v. Washington*, 326 U.S. 310S. Ct. 154 (1945).

- explain = "Minnesota courts will uphold a foreign court's exercise of personal jurisdiction over a nonresident defendant when two requirements are met: (1) compliance with the foreign state's law providing jurisdiction, and (2) the exercise of jurisdiction under circumstances that do not offend the Due Process Clause of the federal constitution."

Minnesota will allow a foreign judgment if (1) Dr. Bardwell had consented to resolve any disputes to the state court of Tennessee since he was conducting business with a party based there, and (2) the Due Process Clause was in no way disrupted as Dr. Bardwell had proper notice and an opportunity to be heard in a court to decide if he shall have some verdict imposed on him and no fundamental rights were violated.

- explain - "The existence of personal jurisdiction and the effectiveness of service of process are both questions of law, which this court reviews de novo"

To review "de novo" means to review the case "from the new" without reference to the previous court to hear this case. A question of law concerns the interpretation or application of law. All together this means that the court was looking at the possible interpretations of personal jurisdiction and effectiveness of service of process anew without relying on the trial court's verdict.

- explain - "When a defendant challenges personal jurisdiction, the plaintiff has the burden to establish a factual basis for that jurisdiction. *Dent-Air, Inc. v. Beech Mountain Air Serv., Inc.*, 332 N.W.2d 904, 907 n.1 (Minn. 1983) (citing *Hardrives, Inc. v. City of LaCrosse, Wis.*, 307 Minn. 290, 293, 240 N.W.2d 814, 816 (1976)). "At the pretrial stage, however, the plaintiff's allegations and supporting evidence [regarding personal jurisdiction] are to be taken as true." *Id.* The burdens are different for service of process, however, "[o]nce the plaintiff submits evidence of service, a defendant who challenges the sufficiency of service of process has the burden of showing that the service was improper." *Shamrock Dev., Inc.*, 754 N.W.2d at 384"

When Dr. Bardwell challenged the personal jurisdiction over him it was Northfield Urgent Care's duty to provide evidence proving that there was indeed personal jurisdiction established. In this case, Dr. Bardwell consenting to the rules of the credit agreement (to be tried in Tennessee if any legal dispute was to surface) was sufficient proof. But, if Dr. Bardwell was to say that the service of process was insufficient (as he did), it would be his duty to provide sufficient evidence to prove the aforementioned.

- explain - Tennessee courts have declared that service upon an organizational defendant may be made upon an individual if that person is so integrated with the organization that he or she will know what to do with the papers that are served. *Hall v. Haynes*, 319 S.W.3d 564, 575 (Tenn. 2010). "Generally, service is sufficient when made upon an individual who stands in such a position as to render it fair, reasonable and just to imply the authority on [her] part to receive service."

This states that if an organization is to be served a summons and it is delivered to the place of business and signed for by a person that works for the organization and would know who to deliver it to then the organization could be considered served. It would be reasonable to think that a person well integrated

in an organization, such as a receptionist, would be obligated to deliver a piece of mail to whom it is addressed.

- explain - "Dr. Bardwell's wife was intertwined with the operation of the clinic,"

Dr. Bardwell's wife was working as a receptionist at his clinic. Taking into consideration that the server can leave the summons at the defendant's place of business, Dr. Bardwell's wife signing for the registered letter and accepting it on behalf of Dr. Bardwell meant that he had been served.

- explain "Because the district court correctly decided that appellant failed to meet its evidentiary burden in challenging service of process, and because appellant agreed to the forum-selection clause in the credit agreement with respondent, we conclude that the district court did not err in denying appellant's motion to vacate the foreign judgment"

Since Dr. Bardwell had consented to certain terms in the credit agreement made with a client ("Customer agrees that any lawsuit arising from the customer's account shall be brought in the State of Tennessee, Davidson County, and shall be subject to the laws of Tennessee..." Clint Pharmaceuticals v. Northfield Urgent Care, LLC.)

- explain who won the case (actual name of the party who won)

Northfield Urgent Care, LLC won this case because the two parties were clearly in a binding agreement.