

SUPREME COURT OF ALABAMA

David Wayne Moore v. Cherie Frances Capesius, now known as Cherie Capesius Ginn, and Executive Real Estate Management, Inc., now known as Ginn Professional Services, Inc.

SC-2026-0037 · No. SC-2026-0037 · Decided June 26, 2026

SUMMARY

The Supreme Court of Alabama reversed the Madison Circuit Court's order releasing a corporate garnishee from a wage garnishment. The court held that the judgment creditor timely demanded an oral examination under Ala. Code § 6-6-450 and was entitled to test the garnishee's assertions before the garnishment was released, remanding with instructions to permit that examination.

CASE DETAILS

|                       |                                                                                                                                                                        |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Alabama                                                                                                                                               |
| WRITING FOR THE COURT | Sellers, Justice; Stewart, Chief Justice; Wise, Justice; Cook, Justice; Parker, Justice                                                                                |
| JURISDICTION          | Supreme Court of Alabama                                                                                                                                               |
| DECIDED               | June 26, 2026                                                                                                                                                          |
| DOCKET                | SC-2026-0037                                                                                                                                                           |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                  |
| PROCEDURAL POSTURE    | Appeal from a judgment of the Madison Circuit Court releasing the garnishee from a wage garnishment.                                                                   |
| STANDARD OF REVIEW    | De novo review applies to a trial court's interpretation of a statute because only a question of law is presented.                                                     |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                                         |
| PARTIES               | David Wayne Moore v. Cherie Frances Capesius, now known as Cherie Capesius Ginn, Executive Real Estate Management, Inc., now known as Ginn Professional Services, Inc. |

TOPICS

- civil procedure
- appellate procedure
- statutory interpretation
- standard of review
- remedies

## PRACTICE AREAS

civil procedure

appellate procedure

garnishment

statutory interpretation

judgment enforcement

## QUESTIONS PRESENTED

1. Whether EREM's motion to release the garnishment, treated as an amended answer to the garnishment, complied with the affidavit requirement of Ala. Code § 6-6-451.
2. Whether the trial court erred by releasing EREM before allowing Moore to timely demand and conduct an oral examination under Ala. Code § 6-6-450.
3. Whether the trial court's immediate release of the garnishment improperly deprived Moore of the opportunity to test EREM's factual assertions and investigate the application of the garnishment to a successor entity.

## HOLDINGS

1. EREM's amended answer substantially complied with the affidavit requirement of Ala. Code § 6-6-451 because it contained the necessary information and was signed by EREM's attorney of record, whose signature under Rule 11(a), Ala. R. Civ. P., provided the required assurance and protection.
2. The trial court erred by releasing EREM before allowing Moore to orally examine the garnishee because Moore timely demanded an oral examination within 30 days after the amended answer was filed.
3. The immediate release caused clear harm to Moore because it deprived him of the opportunity to test the sufficiency and accuracy of EREM's amended answer and affected his garnishment lien and the accounting of withheld funds.

## KEY QUOTATIONS

*“The garnishee must answer under oath according to the terms of the garnishment; and, upon filing, the clerk or register shall give the plaintiff and defendant notice, and the garnishee may, if required by the plaintiff, be examined orally in the presence of the court.”* (5)

*“Because Moore timely complied with the 30-day requirement of § 6-6-450, the trial court erred by not affording him an opportunity to orally examine EREM”* (9-10)

*“However, by immediately granting the amended answer, the trial court improperly denied Moore the right to test the sufficiency of EREM's statements.”* (10)

## FACTUAL BACKGROUND

A \$1,500,000 default judgment was entered against Cherie Capesus Ginn in 2005 for personal injuries arising from a motor-vehicle accident, and Moore successfully revived the judgment in 2015. Wage garnishment payments from Ginn's employer, Executive Real Estate Management, Inc., began in 2017 and continued for nearly eight years. After EREM sold substantially all of its assets to Beacon and Ginn was no longer employed by EREM, EREM filed a motion to release the garnishment. The trial court granted the motion the next day, before Moore could orally examine EREM concerning the termination, the disposition of withheld sums, and whether the garnishment applied to a successor entity.

## PROCEDURAL HISTORY

Moore obtained a 2005 default judgment against Cherie Capesius Ginn and later revived it. A writ of garnishment was issued to her employer, Executive Real Estate Management, Inc. After the employer filed a motion to release the garnishment based on Ginn's termination of employment, the Madison Circuit Court granted the motion immediately. Moore moved to set aside the order and requested an oral examination of the garnishee under Ala. Code § 6-6-450, but those motions were denied by operation of law when the trial court did not rule within 90 days. Moore appealed.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The Madison Circuit Court must comply with the oral-examination requirement of Ala. Code § 6-6-450 by allowing Moore to orally examine EREM concerning the garnishment, including whether the garnishment applies to Beacon as successor in interest, the circumstances of Ginn's employment termination, and whether all sums withheld were paid into court.

## CASES CITED

- Continental Nat'l Indem. Co. v. Fields, 926 So. 2d 1033, 1034-35 (Ala. 2005)
- Scott Bridge Co. v. Wright, 883 So. 2d 1221, 1223 (Ala. 2003)
- Radiance Cap. Receivables Twelve, LLC v. Bondy's Ford, Inc., 411 So. 3d 1210, 1213 (Ala. 2024)
- Green v. Pike Manor, Inc., 431 So. 2d 1316, 1318 (Ala. Civ. App. 1983)
- Steiner v. First Nat'l Bank of Birmingham, 115 Ala. 379, 22 So. 30 (1897)
- Decatur, C. & N.O. Ry. Co. v. Crass, 97 Ala. 519, 521, 12 So. 43 (1892)
- Jackson Hosp. & Clinic, Inc. v. Murphy, 343 So. 3d 490, 498 n.3 (Ala. 2021)
- Shepherd Motor Co. v. Henderson Land & Lumber Co., 213 Ala. 195, 104 So. 334 (1925)
- Friedman v. Cullman Bldg. & Loan Ass'n, 124 Ala. 344, 27 So. 332 (1899)