

SUPREME COURT OF RHODE ISLAND

Trainor v. Grieder

23 A.3d 1171 (R.I. 2011) · No. No. 2009-362-Appeal · Decided June 29, 2011

SUMMARY

The Rhode Island Supreme Court affirmed three Superior Court orders arising from supplementary proceedings to enforce a civil judgment against Paul Grieder. The court held that the Superior Court had subject-matter jurisdiction and that the statutory requirement for a return of an unsatisfied execution was a waivable condition precedent rather than a limit on subject-matter jurisdiction. The court concluded that Grieder had unequivocally waived the requirement through his prior participation in the proceedings and declined to address inadequately briefed arguments concerning incarceration and constitutional rights.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Robinson; Suttell, C.J.; Goldberg, J.; Flaherty, J.; Robinson, J.; Indeglia, J.
JURISDICTION	Rhode Island
DECIDED	June 29, 2011
DOCKET	No. 2009-362-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from three Superior Court orders, including an order denying his motion to dismiss for lack of subject matter jurisdiction based on the absence of a return of an unsatisfied execution.
STANDARD OF REVIEW	De novo review applies because the appeal presents pure questions of law, including questions of law and statutory interpretation.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion
PARTIES	Paul Grieder v. Michael P. Trainor

TOPICS

- subject matter jurisdiction
- waiver
- statutory interpretation
- appellate procedure
- civil procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Judgment enforcement

Statutory interpretation

Remedies

QUESTIONS PRESENTED

1. Whether the absence of a return of an unsatisfied execution deprived the Superior Court of subject matter jurisdiction over supplementary proceedings.
2. Whether the return-of-execution requirement was a waivable condition precedent rather than a limitation on subject matter jurisdiction.
3. Whether the defendant's remaining arguments concerning void process and unconstitutional incarceration should be considered when they were inadequately briefed.

HOLDINGS

1. The absence of a return of an unsatisfied execution did not deprive the Superior Court of subject matter jurisdiction because the court possessed judicial power to hear and decide the collection controversy.
2. The statutory requirement that an execution be returned wholly or partly unsatisfied and unpaid before supplementary proceedings may proceed is a waivable condition precedent, analogous to personal jurisdiction, rather than an unwaivable subject matter jurisdictional prerequisite.
3. Grieder unequivocally waived the return-of-execution objection by repeatedly appearing and responding in supplementary proceedings after being made aware that the execution had not been properly served and returned.
4. The Supreme Court declined to address the defendant's arguments that void jurisdiction procured by void process could not be waived and that he had been unlawfully incarcerated because those arguments were not adequately briefed.

KEY QUOTATIONS

“The Superior Court unquestionably had subject matter jurisdiction.” (1174)

“It is clear to us that the jurisdiction to which the Court in Morris made reference was not subject matter jurisdiction; rather, the reference in that case was to a condition that should be satisfied before a court exercises the jurisdiction that it possesses, but compliance with which may be waived if such compliance is not insisted upon.” (1174)

“It is clear to us that the defendant unequivocally waived the return of execution issue.” (1175)

FACTUAL BACKGROUND

In 1988, Grieder assaulted Trainor, and Grieder later pleaded nolo contendere to simple assault and battery and felony assault. Trainor obtained a \$1.5 million civil judgment against Grieder in 1992 and pursued collection through supplementary proceedings. Although no return of execution had been filed, Grieder repeatedly appeared and responded to citations and participated in proceedings without raising that issue until 2009.

PROCEDURAL HISTORY

Trainor obtained a \$1.5 million civil judgment against Grieder in 1992. During subsequent supplementary proceedings to collect the judgment, Grieder repeatedly appeared and responded to court citations without objecting to the absence of a return of execution. In 2009, he moved to dismiss for lack of jurisdiction and sought relief concerning incarceration and installment payments; the Superior Court denied the motions, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Trainor v. Grieder, 925 A.2d 243, 243 (R.I. 2007)
- Rhode Island Depositors Economic Protection Corp. v. Bowen Court Associates, 763 A.2d 1005, 1007 (R.I. 2001)
- Long v. Dell, Inc., 984 A.2d 1074, 1078-79 (R.I. 2009)
- Newman v. Valleywood Associates, Inc., 874 A.2d 1286, 1288 (R.I. 2005)
- Pollard v. Acer Group, 870 A.2d 429, 433 (R.I. 2005)
- Direct Action for Rights and Equality v. Gannon, 713 A.2d 218, 222 (R.I. 1998)
- Cranston Teachers Association v. Cranston School Committee, 120 R.I. 105, 108-09, 386 A.2d 176, 178 (1978)
- Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 102 S.Ct. 2099, 72 L.Ed. 2d 492 (1982)
- Morris Plan Co. of Rhode Island v. Katz, 57 R.I. 495, 498, 190 A. 455, 456 (1937)
- Sidell v. Sidell, 18 A.3d 499, 507 (R.I. 2011)
- George v. Infantolino, 446 A.2d 757, 759 (R.I. 1982)
- Haxton's of Riverside, Inc. v. Windmill Realty, Inc., 488 A.2d 723, 725 (R.I. 1985)
- Imperial Casualty and Indemnity Co. v. Bellini, 888 A.2d 957, 963 (R.I. 2005)
- Johnson v. Zerbst, 304 U.S. 458, 58 S.Ct. 1019, 82 L.Ed. 1461 (1938)
- Wilkinson v. State Crime Laboratory Commission, 788 A.2d 1129, 1132 n. 1 (R.I. 2002)
- Richmond Square Capital Corp. v. Mittleman, 773 A.2d 882, 888 (R.I. 2001)
- Bossian v. Anderson, 991 A.2d 1025, 1027 (R.I. 2010)
- Thomas v. Ross, 477 A.2d 950, 953 (R.I. 1984)