FILED
FEB 28 1995
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-488 / 93-1060

IRGIL J. DAVIS,

Appellee,

vs.

EDISON J. DAVIS,

Appellant.

Appeal from the Iowa District Court for Marshall County, Timothy J. Finn, Judge.

Edison Davis appeals a judgment of the district court dismissing his objections to the order of garnishment of property in the hands of the Dina Davis estate. **AFFIRMED.**

Edison J. Davis, Desert Hot Springs, California, pro se, for appellant.

Thomas W. Carpenter and Mary E. Keiner of Grefe & Sydney, Des Moines, for appellee.

Considered by Donielson, C.J., and Sackett and Habhab, JJ.

DONIELSON, C.J.

The single issue raised in this appeal is whether the district court properly overruled the defendant's objection to a garnishment. Following a hearing, the district court found the defendant had failed to demonstrate the garnished funds were exempt under Iowa law. We have reviewed the parties' arguments and the record, and we affirm.

Suit was brought against the defendant for recovery upon a promissory note. Summary judgment was entered against him, and garnishment proceedings were commenced. The funds subject to the garnishment were an inheritance to which the defendant was entitled. The defendant filed an objection to the garnishment, and a hearing was held on his objection. His objection was overruled, and he has appealed.

A defendant is entitled to ten days' notice of garnishment proceedings. Iowa Code § 642.14 (1995). A defendant may file an objection to a garnishment for the purpose of "showing that the debt or the property with which it is sought to charge the garnishee is exempt from execution, or for any other reason is not liable for plaintiff's claim." Iowa Code § 642.15 (1995). The defendant bears the burden of proof to establish funds are exempt or otherwise not subject to garnishment. See, e.g., Hopping v. Hopping, 233 Iowa 993, 1004-05, 10 N.W.2d 87, 93-94 (1943); Citizens Bank of Milo v. C.F. Scott & Son, 217 Iowa 584, 589, 250 N.W. 626, 628 (1933).

Since garnishment is an action at law, our review is at law rather than de novo. Padzensky v. Kinzenbaw, 343 N.W.2d 467, 469 (Iowa 1984). The record reveals the defendant had not obtained a stay of execution and presented no evidence to establish the funds in question were not properly subject to garnishment. Neither his objection to the garnishment nor his appellate brief establish any grounds for exempting the funds in question.

The sole issue presented in this appeal is the legitimacy of the defendant's objection to the garnishment. His brief alludes to purported defenses he had to the underlying promissory note action which resulted in the entry of a money judgment against him. The defendant's prior appeal challenging the entry of the judgment was dismissed due to his failure to comply with supreme court docketing procedures. His request for reinstatement of the appeal was denied, and we can not consider the merits of that action in this appeal. The defendant's references to related probate and other proceedings are also irrelevant to this appeal and are not considered by this court.

The defendant failed to carry his burden to prove the funds were not subject to garnishment. The district court decision is affirmed.

AFFIRMED.