

On or about, the 16th day of February, 2022 Plaintiff filed a satisfaction of judgment in this matter. Defendant Bessman paid to Plaintiff the total sum of \$53,703.93. This payoff included paying the judgment amount of \$38,058.66, an award of attorney fees in the amount of \$12,500.00, an award of court costs in the amount of \$2707.66, and post judgment interest in the amount of \$437.64. A copy of the satisfaction is attached hereto as Exhibit A. The deposit of \$56,070 sent to the clerk of Courts was never cashed and it was returned to counsel for Defendant Bessman at her request.

Additionally, on or about about, February 10, 2022, Defendant Bessman filed a motion to dismiss her appeal with the South Dakota Supreme Court. That motion was granted on February 14, 2022, and copy of that Order of Dismissal is attached hereto as Exhibit B. Accordingly, Bessman is not appealing this case, she has satisfied the judgment, and there is no stay of execution in this file on her behalf.

Martin Lindstedt filed a notice of appeal on January 31, 2022. He has not posted any supersedes bond. SDCL 15-6-25 states as follows:

An appeal from a judgment or order shall not stay enforcement of proceedings in the circuit court except as provided in § 15-6-62 unless the appellant executes a supersedeas bond in the amount and form approved by the circuit court or otherwise complies with the provisions of this rule.

Accordingly, Mr. Lindstedt is not entitled to a stay of execution in this matter. Therefore, this trial court retains jurisdiction to carry out the judgment entered by this Court on December 31, 2021.

“An appeal from a judgment or order strips the [circuit] court's jurisdiction over the subject matter of the judgment or order *except as to certain trivial matters....*” *Reaser v. Reaser*,

2004 S.D. 116, ¶ 28, 688 N.W.2d 429, 437 (emphasis added) (quoting *Ryken v. Ryken*, 440 N.W.2d 307, 308 (S.D.1989)). Such matters include “enforcing judgments in the absence of a stay[.]” *Id.*

This Court collected the rent for the year 2021 during the pendency of the this case pursuant to its authority in SDCL 15-6-67. Releasing the funds to satisfy the judgment in 58CIV19-35 (the \$105,000 foreign judgment in favor of Martin Lindstedt) is tantamount to a trivial matter or enforcing judgment as contemplated by the reasoning in *Reaser*. Thus, this Court retains jurisdiction to review and decide this matter as it carries out and enforces the judgment dated December 31, 2021 in absence of an appropriately posted supersedeas bond. This supersedeas bond is not able to be waived and must be posted by Defendant to effectuate a proper stay under SDCL 15-6-25.

Lastly, Defendant Lindstedt’s best interests will be served by disbursing the money at this time. The \$22,050.00 held by the court is currently held in a non-interest baring account, meanwhile the judgment against Mr. Lindstedt is accruing post judgment interest at a rate of 10% per annum. Therefore, in the event the collected funds are disbursed to Plaintiff, he will immediately file a partial satisfaction of judgment in 58CIV19-35 thereby reducing the judgment amount owed, thereby saving Defendant Lindstedt additional interest and reducing his debt. Given Defendant Lindstedt’s self-proclaimed indigent status, his financial status will surely be benefited by disbursement of funds. Release of this money to Defendant Lindstedt will save him approximately \$2,050 in post judgement interest each year.

Plaintiff’s prior motion is restated below, with updates to the post judgment interest calculations:

MOTION FOR RELEASE OF FUNDS HELD BY CLERK OF COURTS

Pursuant to this Court's Judgment dated December 31, 2021 and filed with this Court on January 4, 2022, as well as the pending Order Modifying Findings of Fact and Conclusions of Law and Final Judgment, this Court has previously directed pursuant to SDCL 15-6-67 that the Stanley County Clerk of Courts hold all 2021 rental proceeds from the leases on Stanley County Real Property that is the subject of this litigation. The undersigned received confirmation on January 10, 2022 that the Stanley County Clerk of Courts has established an account for the same, and the rental checks from October of 2021 have been deposited into the account for a combined initial balance of \$22,050.00.

The purpose of this account per the Judgment and the Order Modifying Judgment is to collect the 2021 rental proceeds that should be used to satisfy the numerous judgments held by Bryan Reo against Martin Lindstedt. This case has been brought to final judgment. The parties unanimously agree that the judgment referred to as the "\$105,000 judgment" has been duly filed and docketed as a foreign judgment in Stanley County file number 58CIV19-35, and that the same is not subject to any collateral attack. There are no pending motions, objections, or collateral attacks in that file.

The total amount of the judgment against Martin Lindstedt in that file is \$105,000 and the judgment was docketed on August 19, 2019. "Interest is payable on all judgments . . . at the Category B rate of interest as established in § 54-3-16" SDCL 54-3-5.1. The Category B rate of interest is 10% per year. SDCL 54-3-5.1.

Payoff computation is as follows, based upon date of filing foreign judgment in 58CIV19-35:

2019: 133

2020: 365

2021: 365

2022: 47 (through the partial satisfaction of judgment on February 17, 2022)

Total: 910 days (through February 17, 2022)

One year interest = \$10,500.00 One day interest = \$28.77

910 Days
————— X \$10,500 = Total Post Judgment Interest = \$26,178.08.
365 days/year

Payment of \$38,058.66 on February 17, 2022. (\$26,178.08 in interest and \$11,880.58 in principal.)

New principal amount: \$93,119.42 as of February 17, 2022.

2022: 7 (through the date of filing this motion)

Total: 7 days (through February 24, 2022)

One year interest = \$9,311.94 One day interest = \$25.51

7 Days
————— X \$10,500 = Total Post Judgment Interest = \$178.57.
365 days/year

Total payoff as of February 24, 2022 = \$93,297.99 (Principal + Interest)

Plaintiff requests that this Court issue an order releasing the \$22,050.00 in rental proceeds to the Plaintiff for the purposes of partially satisfying the judgment filed in 58CIV19-35. Upon disbursement, Plaintiff will promptly file a partial satisfaction of judgment in 58CIV19-35 to reflect the total amount of the distributed amount.

Dated this 24th day of February, 2022.

Konrad Law Prof. LLC

/s/Robert Konrad

Robert Konrad
1110 East Sioux Avenue
Pierre, SD 57501
605-494-3004
rob@xtremejustice.com

Certificate of Service

The undersigned hereby certifies that on the 24th day of February, 2022 he served a true and correct copy of the Renewed Amended Motion for Release of Funds Held by Clerk of Courts upon the following persons in the following manner:

BY EMAIL TO:

Sarah Baron Houy
Attorney for Defendant Bessman
sbaronhouy@bangsmccullen.com
By way of Odyssey File and Serve

Martin Lindstedt
Pro Se Defendant
pastorlindstedt@gmail.com
(Courtesy)

AND BY USPS MAIL POSTAGE PREPAID TO THE FOLLOWING:

Martin Lindstedt
338 Rabbit Track Road
Granby, MO 64844

Dated this 24th day of February, 2022.

/s/ Robert Konrad

Robert Konrad

Susan April Bessman, as Trustee of the Susan April Bessman Revocable Living Trust, and in favor of the Plaintiff Bryan Reo, including any applicable interest thereon, have been paid and satisfied in full, and Plaintiff hereby requests the Clerk of Court to record and make note of the same.

Dated February ^{16th}, 2022.

KONRAD LAW PROF. LLC

BY: 

Robert Konrad
1110 East Sioux Avenue
Pierre, South Dakota 57501
Phone: (605) 494-3004
rob@xtremejustice.com
ATTORNEY FOR PLAINTIFF

SUPRE
STATE OF SOUTH DAKOTA
FILED

FEB 14 2022

Shirley A. Jameson-Fergel
Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

BRYAN ANTHONY REO,
Plaintiff and Appellee,

vs.

MARTIN LINDSTEDT
Defendant and Appellee,

and

SUSAN APRIL BESSMAN, as
Trustee of the Susan April
Bessman Revocable Living Trust,
Defendant and Appellant.

ORDER DISMISSING APPEAL

#29899

Appellant having served and filed a motion to dismiss the
appeal taken in the above-entitled matter, and the Court having
considered the motion, now, therefore, it is

ORDERED that the appeal be and it is hereby dismissed.

DATED at Pierre, South Dakota, this 14th day of February,
2022.

BY THE COURT:

Steven R. Jensen
Steven R. Jensen, Chief Justice

ATTEST:

Shirley A. Jameson-Fergel
Clerk of the Supreme Court

By: *Anna J. Graves*
Chief Deputy Clerk
(SEAL)