

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

City of Columbus, Division of Income Tax, :

Plaintiff-Appellee, :

v. :

No. 09AP-903

(M.C. No. M9811 CVF 37872)

Abdulshafi Ahmed Abdulshafi et al., :

(REGULAR CALENDAR)

Defendants-Appellants. :

D E C I S I O N

Rendered on June 30, 2010

Linebarger, Goggan, Blair & Sampson, LLP, Michael E. Scoliere and George H. Calloway, for appellee.

Abdulshafi A. Abdulshafi, pro se.

APPEAL from the Franklin County Municipal Court.

McGRATH, J.

{¶1} Defendant-appellant, Abdulshafi A. Abdulshafi ("appellant"), appeals from the judgment of the Franklin County Municipal Court reviving a dormant judgment against him. For the following reasons, we affirm.

{¶2} On November 23, 1998, plaintiff-appellee, City of Columbus, Division of Income Tax, filed a complaint against appellant alleging a failure to pay taxes. Appellant filed an answer, but failed to appear for trial. Thus, on July 23, 1999, judgment was rendered in favor of appellee in the amount of \$1,562.38, plus costs and interest, and a

certificate of judgment was filed on June 22, 2000. On February 17, 2009, appellee filed a motion to revive the dormant judgment. On February 26, 2009, the trial court issued a conditional order of revivor stating that judgment be revived in the amount of \$2,477.53, unless, within 28 days, appellant filed an answer showing cause why judgment should not be revived. Appellant filed a memorandum entitled "show cause not to revive and motion to set aside and dismiss default judgment" on June 4, 2009. On August 31, 2009, the trial court found any attacks on the underlying judgment were barred by res judicata and that appellant failed to show cause why judgment against him should not be revived. Therefore, judgment was revived as follows: original judgment amount of \$1,562.38; interest in the amount of \$781.15 at 10 percent from July 23, 1999 through July 23, 2004; interest at 4 percent per annum; and costs taxed at \$30.00.

{¶3} Appellant timely appealed and brings the following three assignments of error for our review:¹

1. Appellant presents that the judgment was obtained by undue means.
2. Appellant presents that the judgment is contrary to the manifest weight of evidence.
3. Appellant present[s] that the trial court didn't rule on the motion to set aside the case and dismiss it.

¹ We note that though appellant lists three assignments of error in the beginning of his appellate brief, the arguments contained within the body of the brief do not necessarily correspond with the three listed assignments of error. App.R. 16(A) requires a separate argument for each assignment of error, and pursuant to App.R. 12(A)(2), an appellate court may disregard any assignment of error for which a separate argument has not been made. See, e.g., *Portsmouth v. Internatl. Assn. of Fire Fighters*, Loc. 512, 139 Ohio App.3d 621, 626, 2000-Ohio-1975; *Park v. Ambrose* (1993), 85 Ohio App.3d 179, 186; *State v. Caldwell* (1992), 79 Ohio App.3d 667, 677. Accordingly, while App.R. 12(A)(2) permits us to disregard assignments of error that are not separately argued, in the interest of judicial fairness, we will address the arguments made in the body of the appellate brief without regard to the headings.

{¶4} The bulk of appellant's arguments relate to the judgment rendered in 1999. It is clear from the record that appellant filed an answer and was notified of the trial date but failed to appear for trial. Upon "evidence adduced" at trial, judgment was rendered in favor of appellee and no appeal was taken from this judgment. As stated by the Twelfth District Court of Appeals:

A proceeding to revive a judgment is not a new action, but merely a motion in the original action. Consequently, an alleged error in the rendition of the judgment may not be offered in defense in a proceeding to revive judgment. Rather, a collateral attack against a judgment must be made directly on appeal or through a motion to vacate judgment. Appellant did not appeal or otherwise directly attack the costs judgment. Appellant is therefore precluded from collaterally attacking the validity of the costs judgment in defending against the state's motion to revive judgment.

State v. Jones (Oct. 16, 2000), 12th Dist. No. CA2000-02-015 (internal citations omitted). See also *Mirman v. Webster* (Feb. 13, 1933), 9th Dist. No. 2174 (defenses which would render a judgment voidable cannot be raised on a motion to revive judgment).

{¶5} As in *Jones*, appellant did not appeal or otherwise attack the judgment rendered in 1999. As such, he is precluded from collaterally attacking the validity of the same in defending against the motion to revive judgment.

{¶6} Appellant next states in his appellate brief that due process is not clear and "is kindly asking the Appellate court about defining due process of law that takes place in this case." (Appellate brief, 11.) Thus, appellant does not identify any trial court error but, rather, requests an advisory opinion. Courts do not issue advisory opinions but, rather, render judgments which can be carried into effect. *Streb v. AMF Bowling Ctrs., Inc.* (May 4, 2000), 10th Dist. No. 99AP-633, citing *Fortner v. Thomas* (1970), 22 Ohio St.2d 13, 14.

{¶7} Accordingly, we find no merit to the arguments raised by appellant and overrule his three assignments of error. Having overruled his assignments of error, the judgment of the Franklin County Municipal Court is hereby affirmed.

Judgment affirmed.

TYACK, P.J., and SADLER, J. concur.
