

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

HEIDI ZIEGLER,

Appellant,

v.

Case No. 5D19-2218

HARTMUT ZIEGLER,

Appellee.

_____ /

Opinion filed July 10, 2020

Nonfinal Appeal from the Circuit
Court for Orange County,
Diana Michelle Tennis, Judge.

Kyle D. Macomber, of Middleton &
Middleton, P.A., Melrose, for Appellant.

Mark A. Skipper, of Law Office of Mark A.
Skipper, P.A., Orlando, for Appellee.

WALLIS, J.

Heidi Ziegler (Former Wife) appeals the nonfinal order entering a writ of garnishment in favor of Hartmut Ziegler (Former Husband). We reverse in part.

The parties' marriage was dissolved in 2015 and, as a part of those proceedings, Former Husband obtained a money judgment against Former Wife. Former Husband subsequently filed a Motion for Continuing Writ of Garnishment and requested that the trial court order that Former Wife pay his attorney's fees pursuant to section 57.115,

Florida Statutes (2019). Former Wife filed a Claim of Exemption based on her status as head of household. After an evidentiary hearing, the trial court entered an order granting the writ of garnishment, finding that Former Wife failed to meet her burden of proving that she is the head of household such that the statutory exemption applies. The order also required that Former Wife pay Former Husband's attorney's fees.

The trial court's finding that Former Wife failed to meet her burden of proving the statutory exemption is supported by competent, substantial evidence. We, therefore, affirm the portion of the order entering the writ of garnishment.¹ However, as Former Husband concedes, the trial court erred in ordering that Former Wife pay attorney's fees pursuant to section 57.115. See Paz v. Hernandez, 654 So. 2d 1243, 1244 (Fla. 3d DCA 1995) (finding that the trial court erred in awarding attorney's fees pursuant to section 57.115 in a garnishment action because garnishment is not "merely another form of execution" of a judgment). Accordingly, the portion of the order awarding Former Husband attorney's fees is reversed.

AFFIRMED in Part; REVERSED in Part.

GROSSHANS and SASSO, JJ., concur.

¹ We reject, without comment, Former Wife's arguments that her due process rights were violated and that the trial court failed to strictly follow the garnishment statute.