

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ONLINE SATELLITE COMMUNICATION,
Appellant,

v.

GMPCS PERSONAL COMMUNICATION, INC.,
Appellee.

No. 4D14-2791

[July 15, 2015]

ON MOTION FOR REHEARING

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Thomas Lynch, IV, Judge; L.T. Case No. 12-33465 (05).

Stephen R. Verbit of Stephen R. Verbit, P.A., Fort Lauderdale, for appellant.

Diane H. Tutt of Conroy Simberg, Hollywood, and Robert S. Horwitz of Conroy Simberg, West Palm Beach, for appellee.

PER CURIAM.

We deny the motion for rehearing. Although appellant claims that the court took no evidence at the 8:45 hearing on the motion to quash service of process, the denial of which is the subject of this appeal, the order itself states:

THE COURT having considered the grounds for the Motion, *taken testimony*, heard argument and considered the applicable law, it is FOUND,

ORDERED AND ADJUDGED as follows:

Motion to Quash Service and To Dismiss Complaint is denied.

(Emphasis supplied).

As the form order states that testimony was taken, it would be incumbent on the parties to strike that from the order if that

was not applicable. Otherwise, this court must assume that the order means what it says, and without a transcript we cannot determine whether the evidence presented at the hearing was sufficient or insufficient to support the order denying the motion. Thus, affirmance based upon *Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150 (Fla. 1979), is proper.

WARNER, GROSS and CONNER, JJ., concur.

* * *