

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

NELSON BELL,
Appellant,

v.

REAL ESTATE FLORIDA COMMERCIAL INTERNATIONAL, INC., f/k/a
Real Estate World Florida Commercial, Inc.,
Appellee.

No. 4D08-827

[October 29, 2008]

PER CURIAM.

Appellant moved to vacate a final judgment on the ground that he was not properly served with process. At the hearing on the motion to set aside the judgment, based on a default, the process server testified that he had served appellant with the papers, despite appellant's attempts to avoid service of process. Appellant admitted he lived at the address where the process server had been attempting to serve him, but testified that he had been out of town when the process server claimed to have served him with the papers at the gate to his driveway. The trial court obviously believed the process server, who identified appellant as the person he served.

Where return of service appears valid on its face, there is a presumption of correctness, *Slomowitz v. Walker*, 429 So. 2d 797 (Fla. 4th DCA 1983), and in this case appellant did not overcome that presumption. We have considered the other issue raised by appellant and find it to be without merit. Affirmed.

POLEN, KLEIN and STEVENSON, JJ., concur.

* * *

Appeal of a non-final order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Robert A. Rosenberg, Judge; L.T. Case No. 05-06236 CACE 12.

Roger G. Stanway, Hollywood, for appellant.

Patrick John McGinley of the Law Office of Patrick John McGinley,
P.A., Winter Park, for appellee.

Not final until disposition of timely filed motion for rehearing.