

**FRANKLIN CREDIT  
MANAGEMENT  
CORPORATION**

**VERSUS**

**PERCY GRAY, JR.**

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**NO. 2007-CA-1433**

**COURT OF APPEAL**

**FOURTH CIRCUIT**

**STATE OF LOUISIANA**

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ON APPEAL FROM  
CIVIL DISTRICT COURT, ORLEANS PARISH  
NO. 2006-743, DIVISION "N-8"  
Honorable Ethel Simms Julien, Judge

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**PER CURIAM**

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(Court composed of Judge Max N. Tobias, Jr., Judge Edwin A. Lombard, Judge Paul A. Bonin)

(ON APPLICATION FOR REHEARING)

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**APPLICATION FOR REHEARING DENIED**

**FEBRUARY 4, 2009**

After considering the application for rehearing filed by Percy Gray, Jr., the application for rehearing is denied. We find that, according to the terms and conditions of the promissory note executed by Gray, Gray was obligated to make monthly payments in the amount of \$537.52 for 20 years. If each monthly installment was paid timely when due, then the balance owed by Gray on 27 January 2006, the date the instant suit was filed, would be \$43,898.05. We note that, according to the Loan History Summary submitted by Franklin in support of its motion for summary judgment, Gray made additional payments on his indebtedness. However, the record before us is devoid of competent evidence that Gray informed Franklin that these additional payments were advance payments on monthly installments. Absent such evidence that prior payments were specifically intended to cover future monthly installments, we find that Franklin properly applied these payments to reduce the principal after deducting any past due amounts of any nature owed, including past accumulated interest, if any. We further find that the extra payments Gray made did not absolve him of his obligation under the note to continue to timely pay the \$537.52 monthly installments when they became due. The balance of \$42,664.11 for which Franklin

sued represents the principal balance due as of the date suit was filed. The variance between that amount and the \$43,898.05 that would be due if Gray had made no extra payments reflects extra payments not designated as payments of installments and did not relieve Gray of his monthly obligation. The motion for summary judgment was properly granted.

**APPLICATION FOR REHEARING DENIED.**