

DA 09-0229

IN THE SUPREME COURT OF THE STATE OF MONTANA

2009 MT 351N

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JAMES M. WALTERS and DIANE M. WALTERS,

Plaintiffs and Appellees,

v.

LARRY LULOFF and JANET PERKINS LULOFF,

Defendants and Appellants.

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APPEAL FROM: District Court of the Twenty-Second Judicial District,  
In and For the County of Carbon, Cause No. 03-57  
Honorable Blair Jones, Presiding Judge

COUNSEL OF RECORD:

For Appellants:

Larry Luloff, Janet Perkins Luloff, self-represented litigants;  
Roberts, Montana

For Appellees:

Kathryn S. Syth; LaRance & Syth, P.C., Billings, Montana

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Submitted on Briefs: October 8, 2009

Decided: October 21, 2009

Filed:

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Clerk

Chief Justice Mike McGrath delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d)(v), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2003, the following memorandum decision shall not be cited as precedent. It shall be filed as a public document with the Clerk of the Supreme Court and its case title, Supreme Court cause number and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Larry Luloff and Janet Perkins Luloff appeal the post-judgment order of the Twenty-Second Judicial District Court, Carbon County, denying their motion to quash a writ of execution and also denying their claim for exemptions from execution. We affirm.

¶3 The Luloffs claim they did not receive proper notice of the seizure of their monies from bank deposit accounts and certificates of deposit, as required under § 25-13-211, MCA. They also claim the funds seized were exempt retirement funds. Finally, they ask us to define guidelines for the handling of funds from retirement and other benefits.

¶4 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our 1996 Internal Operating Rules, as amended in 2003, which provides for memorandum opinions. There clearly is sufficient evidence in the record to support the District Court's findings that the Luloffs failed to prove the notice of seizure they received did not meet statutory requirements or the monies seized were traceable as exempt retirement funds. Further, we do not issue advisory opinions. *Serena Vista,*

*L.L.C. v. State of Montana Dept. of Nat. Resources and Conserv.*, 2008 MT 65, ¶ 14, 342 Mont. 73, 179 P.3d 510. Therefore, we decline the Luloffs' request that we define guidelines for the handling of funds from retirement and other benefits.

¶5 Affirmed.

/S/ MIKE McGRATH

We concur:

/S/ PATRICIA O. COTTER  
/S/ JAMES C. NELSON  
/S/ BRIAN MORRIS  
/S/ JIM RICE