

IN THE UTAH COURT OF APPEALS

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Roger Bryner,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellant,)		
)	Case No. 20070183-CA	
v.)		
)		
Emily Smoak; and Cohne,)	F I L E D	
Rappaport, and Segal,)	(March 13, 2008)	
)		
Defendants and Appellees.)	<table border="1"><tr><td>2008 UT App 81</td></tr></table>	2008 UT App 81
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Third District, Salt Lake Department, 050922650
The Honorable Kate A. Toomey

Attorneys: Roger Bryner, Midvale, Appellant Pro Se
 Jeffrey L. Silvestrini, Salt Lake City, for Appellee

Before Judges Thorne, Bench, and Billings.

PER CURIAM:

Roger Bryner appeals the district court's denial of his motion to vacate a garnishment directed at Fidelity Investments. Bryner argues that the district court improperly denied his motion because federal law preempts state law, and federal law does not allow the garnishment of certain retirement accounts. However, there is no need to resolve the issues raised by Bryner because they are moot.

"An issue on appeal is considered moot when the requested judicial relief cannot affect the rights of the litigants. When an issue is moot, judicial policy dictates against our rendering an advisory opinion." State v. Sims, 881 P.2d 840, 841 (Utah 1998) (internal quotation marks and citations omitted). On December 1, 2006, Appellees (collectively referred to as Cohne Rappaport) applied for a writ of garnishment directed to Fidelity Investments. Shortly thereafter, Fidelity Investments notified Cohne Rappaport that the accounts specified in the writ were retirement accounts immune from garnishment. Bryner then filed a motion to vacate the writ of garnishment. On December 19, 2006, in response to the notice Cohne Rappaport received from Fidelity Investments, Cohne Rappaport filed a release of the previous garnishment. No funds were ever removed from Bryner's Fidelity

Investments retirement accounts. Because Cohne Rappaport released the garnishment in question, the relief requested by Bryner can no longer affect his rights or the rights of Cohne Rappaport. Accordingly, the issues raised by Bryner are moot, and "judicial policy dictates against our rendering an advisory opinion." Id.

This case is dismissed as moot.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Judith M. Billings, Judge