

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

RICHARD BREES, d/b/a THE JUDGMENT  
RECOVERY GROUP,

Appellant,

And

TODD GUIRSCH,

Plaintiff,

v.

JOHN D. SWEET a/k/a DAVID SWEET,

Appellant.

No. 41190-3-II

UNPUBLISHED OPINION

Armstrong, J.—Richard Brees appeals from the trial court’s order denying his motion to dismiss John Sweet’s appeal of a judgment in favor of Todd Guirsch and removing Brees as assignee of Guirsch’s judgment. We affirm.<sup>1</sup>

On December 10, 2007, the Pierce County District Court entered a small claims judgment in favor of Guirsch and against Sweet for \$4,104. On January 10, 2008, Sweet filed a notice of appeal to superior court. But he failed to perfect his appeal and on August 10, 2009, it was dismissed for want of prosecution.

---

<sup>1</sup> A commissioner of this court initially considered Brees’s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

On January 14, 2010, Brees obtained an order for supplemental proceedings against Sweet. On February 1, 2010, he obtained a writ of garnishment against Sweet's employer. Sweet moved to vacate the order dismissing his appeal of the small claims judgment. The superior court granted that motion but ordered Sweet to pay terms of \$500. Sweet moved to strike the supplemental proceedings and remove Brees from the case, arguing that because Brees did not have an absolute assignment of the judgment from Guirsch, his actions in attempting to collect the judgment were either the unlicensed operation of a collection agency or the unauthorized practice of law. Brees responded that he did have an absolute assignment and so he could collect on the judgment pro se. He also moved to dismiss Sweet's appeal, arguing that Sweet had not complied with jurisdictional requirements. The superior court denied Brees's motion to dismiss Sweet's appeal and granted Sweet's motion to remove Brees as assignee because he did not have an absolute assignment from Guirsch. The court denied Brees's motion for reconsideration and he appeals.

Brees argues that he has an "absolute" assignment from Guirsch and so he can collect on Guirsch's judgment pro se. For an assignee to pursue a claim pro se, the assignor must "assign his or her claim against a debtor in such a way as to effect a complete sale of the claim." *DeBenedictis v. Hagen*, 77 Wn. App. 284, 289, 890 P.2d 529 (1995). In any other assignment, the assignee acts as the agent for the assignor. *DeBenedictis*, 77 Wn. App. at 289-90. And unless the assignee is an attorney, he or she cannot act as the assignor's agent through the use of supplemental proceedings or writs of garnishment. GR 24(a)(3); RCW 6.27.060; RCW 6.32.010.

Brees presented an Acknowledgment of Assignment of Judgment in which Guirsch “hereby transfer[red] irrevocably, without recourse, and assign[ed] all title, right, and interest in the [judgment against Sweet] to” Brees and in which he “hereby authorize[d] [Brees] to recover, compromise, settle and enforce said judgment and I withdraw all right and claim to same.” Clerk’s Papers (CP) at 137. Brees contends that this assignment is sufficient for him to enforce the judgment against Sweet pro se.

But in determining whether an assignment “effect[ed] a complete sale of the claim,” the trial court must consider the context in which the assignment is made. *DeBenedictis*, 77 Wn. App. at 289. Despite being asked for other documentation establishing that Guirsch had made a complete sale of his judgment against Sweet to Brees, Brees provided only a letter that Guirsch sent Sweet stating that Brees “owns this case and Judgment.” CP at 133. But he provided no evidence that Guirsch received any consideration for the assignment. And without consideration, the assignment would not have effected a complete sale of the judgment. *DeBenedictis*, 77 Wn. App. at 292. Brees does not dispute that an assignment must be supported by consideration but contends that Sweet has the burden of showing the absence of consideration. But that would require Sweet to prove a negative proposition.

We review the trial court’s findings regarding the validity of an assignment for substantial evidence. *DeBenedictis*, 77 Wn. App. at 291. Substantial evidence supports the trial court’s finding that Guirsch’s assignment of his judgment against Sweet to Brees did not effect a complete sale of the assignment, such that Brees could enforce the judgment pro se. As a nonattorney, Brees cannot enforce Guirsch’s judgment on Guirsch’s behalf. And without having

No. 41190-3-II

the authority to represent Guirsch, Brees does not have standing to challenge the appellate jurisdiction of the superior court over Sweet's appeal. We affirm the trial court.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

---

Armstrong, J.

We concur:

---

Penoyar, C.J.

---

Johanson, J.