

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :  
 :  
 vs. : NO. 95-11, 016  
 :  
 JOHN A. HILFIRTY, : CRIMINAL ACTION - LAW  
 : MOTION TO  
 Defendant : VACATE ARREST WARRANT

*Date: June 3, 2003*

**OPINION AND ORDER**

**Facts/Procedural Background**

Before the Court for determination is the Motion to Vacate Arrest Warrant of Defendant John A. Hilfirty (Hilfirty) filed on February 18, 2003. Hilfirty is seeking to have a pending bench warrant vacated and Lycoming County (the County) prevented from collecting the fine and costs he owes.

On June 7, 1996, Hilfirty was convicted of disorderly conduct. The sentence filed June 13, 1996 ordered Hilfirty to pay a fine and costs. Hilfirty appealed to the Pennsylvania Superior Court. The appeal was denied and the sentence affirmed on October 31, 1997 (filed in the Lycoming County Prothonotary’s Office on December 24, 1997). Following the affirmation on November 3, 1997, the Honorable J. Michael Williamson ordered that Hilfirty appear before the Court to determine whether the fine and costs imposed by the June 7, 1996 sentencing order had been paid. On November 12, 1997, Judge Williamson ordered Hilfirty to pay fifty dollars per month beginning on December 15, 1997 unless a petition for allowance of appeal to the Supreme Court had been filed by Hilfirty prior to that date. A

petition was filed but was denied (as referenced in Judge Williamson's subsequent Order of May 7, 1998).

On May 7, 1998, Judge Williamson ordered Hilfirty to pay fifty dollars per month towards the fines and costs under the June 6, 1996 sentencing order since the Supreme Court denied Hilfirty's Petition for Allowance of Appeal.

On September 2, 1998, at a delinquent account hearing, based upon an admission and agreement, this Court found Hilfirty in contempt of Judge Williamson's Order for failing to pay the outstanding fine and costs. In accordance with the agreement, no contempt sentence was imposed but this Court did order Hilfirty to pay twenty-five dollars on that date and to pay twenty-five dollars on the first day of each month until the amount was paid in full. The imposed amount due was fixed at \$385.50.

On February 17, 1999, a further Petition for Contempt was filed by the Lycoming County District Attorney's Office seeking to find Hilfirty in contempt for failure to pay the fine and costs of the June 7, 1996 order. The petition alleged that Hilfirty had not made a payment since November 23, 1998 in disregard of an established twenty-five dollar monthly payment amount. On April 27, 1999, a hearing was held before the Honorable Nancy L. Butts regarding the contempt petition. Judge Butts ordered Hilfirty to be made eligible to perform community service to satisfy the debt. Judge Butts directed Adult Probation to contact Hilfirty to set up the community service placement. If Adult Probation had not contacted Hilfirty within thirty days, then he was to make a ten-dollar payment on or before June 1, 1999 and every month thereafter. The order was not signed nor filed by Judge Butts until April 8, 2003.

On April 18, 2000, a bench warrant was issued for Hilfirty because he had failed to comply with this Court's September 2, 1998 order regarding the payment of his fine and costs. The warrant remained outstanding and no further action in this case occurred until Hilfirty filed this Motion to Vacate the Bench Warrant.

By an order dated April 28, 2003, after an evidentiary hearing this Court vacated the April 18, 2000 bench warrant. The Court also found that Hilfirty was not in contempt of Court and said that we would dismiss any pending contempt citation.

**Discussion**

The issue before the Court is whether the four-year statute of limitations under 42 Pa. C.S. §5525 bars the County from collecting the fine and costs owed by Hilfirty. That Statute of Limitations provides that:

The following actions and proceedings must be commenced within four years;

(5) An action upon a judgment or decree of any court of the United States or of any state.

42 Pa. C.S.A. §5525(a)(5). The Court holds that the four-year statute of limitations does not impede the County from taking action to secure payment of Hilfirty's debt. The statute of limitations does not begin to run from the original sentence date as Hilfirty contends. The County has four years from the time Hilfirty fails to make a payment, under the applicable court order, to bring an action to enforce the payment.

A county has two remedies to secure payment of costs and fines associated with a

criminal case, a contempt petition or a civil proceeding. *Commonwealth v. Rosser*, 407 A.2d 857, 860 (Pa. Super. 1979). A county is not obliged to give preference to one or the other and may choose the option it desires. *Ibid*. However, an action based upon a judgment or decree regarding the costs and fine debt must be commenced within four years. 42 Pa. C.S.A. 5525(a)(5).<sup>1</sup>

A statute of limitations requires an injured individual to bring his claims within a “certain time of the injury, so that the passage of time does not damage the defendant’s ability to adequately defend against [the] claims made.” *Dalrymple v. Brown*, 701 A.2d 164, 167 (Pa. 1997). “The purpose of any statute of limitations is to expedite litigation and thus discourage delay and the presentation of stale claims which may greatly prejudice the defense of such claims.” *Ins. Co. of North America v. Carnahan*, 284 A.2d 728, 729 (Pa. 1971). “The statute of limitations begins to run as soon as the right to institute and maintain a suit arises.” *Dalrymple*, 701 A.2d at 167 (quoting *Schaffer v. Larzelere*, 189 A.2d 267, 269 (Pa. 1963)); *Gatling v. Eaton Corp.*, 807 A.2d 283, 289 (Pa. Super. 2002). As soon as the statutorily prescribed period for instituting a cause of action has expired, the injured party is barred from bringing the action. *Baumgart v. Keene Bldg. Prods. Corp.*, 666 A.2d 238, 240 (Pa. 1995).

A cause of action arises in favor of the County against Hilfirty when Hilfirty fails to make the required payment. Until then, Hilfirty would be considered in compliance with the order and there

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<sup>1</sup> In his motion, Hilfirty asserts that a six-year statute of limitations applies to an action upon a judgment or decree of any court of the United States or any state. 42 Pa.C.S.A. §5527(1). However, 42 Pa.C.S.A. §5527 was amended in 1982 and subparagraph (1) was deleted. Also in 1982, 42 Pa.C.S.A. §5525 was amended to include subparagraph (a)(1), which applied a four-year statute of limitations to an action upon a judgment or decree of any court of the United States or any state. The amendments only applied to causes of action that accrued after the effective date of the amendment. The effective date of the amendments was February 17, 1983. Therefore, the case *sub judice* would come under the statute

would be no harm for the County to seek judicial redress.

The County has sought to ensure that Hilfirty pays the debt and has acted within the statute of limitations in its attempts. The last attempt that the Court can discern from the record was the February 17, 1999 contempt petition. This County action was commenced timely since it was initiated within a year of the alleged failure of Hilfirty to make payment on the debt in 1998. Therefore, the County is not barred by the four-year statute of limitations from seeking payment of the fine and costs debt as the Statute of Limitations does not begin to run until payment is not made.

Hilfirty probably knew about Judge Butt's order regarding how he was to satisfy the fine and costs debt at the conclusion of the April 27, 1999 hearing. This is demonstrated by Hilfirty's statement in his motion that Judge Butts denied the contempt request and ordered the District Attorney's Office to coordinate arrangements with Adult Probation for him to work off the balance of the debt. Nevertheless, the contempt petition was not resolved until April 8, 2003 when Judge Butts signed and filed the order. Under the applicable court order, the County would have four years from the date of Hilfirty's failure to make payment to initiate an action to enforce the court order. The triggering event for the statute of limitations is the failure to pay, not the issuing of the order to pay.

In applying the four year statute of limitations to court orders enforcing a fine and cost judgment, the Court is mindful of the Superior Court's holding in *Gerace v. Gerace*, 631 A.2d 1360 (Pa. Super. 1993). The Superior Court held that a petition for contempt alleging a failure to comply with an order under the Protection from Abuse Act filed after the expiration of that order was not time barred.

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of limitations as prescribed by the 1982 amendments.

The Superior Court stated, “[t]here is no statute of limitations for obeying a court order or requesting the enforcement of a court order.” *Id.* at 1360. However, the case recognized that an analogy could be made to an action upon a judgment or decree, which has a four-year statute of limitations.

This Court believes that a contempt order or other court order, which requires the payment of the fine and costs debt, would be considered a judgment or decree of court. A judgment is “an official entry of a verdict or decision of the trial judge.” *Dombrowski v. Cherkassky*, 691 A.2d 976, 977 (Pa. Super. 1997). It is “a decision of the court resolving the dispute and determining the rights and obligations of the parties.” *Black’s Law Dictionary* 755 (5th ed. 1979). A court order requiring Hilfirty to pay the fine and costs debt would be considered a judgment or decree of court because it is a court decision that determines Hilfirty’s obligations concerning the debt. Therefore, it is appropriate to apply the four-year statute of limitations to any action upon a court order directing the payment of the fine and costs debt.

### **Conclusion**

The four-year Statute of Limitations does not bar the County from seeking payment of Hilfirty’s fine and costs debt. The Statute of Limitations begins to run from that date of Hilfirty’s failure to make payment and not the date of the original 1996 order. Therefore, Hilfirty’s Motion to Vacate Arrest Warrant is denied.

**ORDER**

It is hereby ORDERED that the Motion to Vacate Arrest Warrant of Defendant John A. Hilfirty filed on February 18, 2003 is denied in so far as the request for the Court to close the above captioned matter with prejudice and preclude Lycoming County from seeking payment of the outstanding fine and costs debt.

The request in the Motion to Vacate Arrest Warrant to vacate the pending bench warrant was granted by prior order of this Court and is reaffirmed in this order.

John A. Hilfirty is hereby ORDERED to make payment of the outstanding debt owed, which is the amount of \$239.50. He shall pay to the Cost Clerk \$10.00 within ten days of receipt of this order. He shall then make monthly payments of \$10.00 to the Cost Clerk on the first of each month beginning on July 1, 2003 until the debt is paid.

John A. Hilfirty shall also bring proof of income by way of tax returns for 2002 and supporting documents and pay receipts for the last twelve months to the Cost Clerk's Office when he make his initial \$10.00 payment within ten days of this order. Either the Cost Clerk's Office or Hilfirty may petition for a modification of the payment schedule.

BY THE COURT,

WILLIAM S. KIESER, JUDGE