MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHRISTAL ALLEN, Respondent,
v.
X & F ENTERPRISE CORP., Appellant.

DOCKET NUMBER WD86536

DATE: July 9, 2024

Appeal From:

Jackson County Circuit Court
The Honorable Marty Wayne Seaton, Judge

Appellate Judges:

Division Four: Gary D. Witt, Chief Judge Presiding, Janet Sutton, Judge, and Susan Casey, Special Judge

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Attorneys:

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Patrick Hunt, Kansas City, MO, co-counsel for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHRISTAL ALLEN, Respondent,
v.
X & F ENTERPRISE CORP., Appellant.

WD86536 Jackson County

Before Division Four Judges: Gary D. Witt, Chief Judge Presiding, Janet Sutton, Judge, and Susan Casey, Special Judge

In December 2009, Christal Allen (Allen) filed a petition for damages against X & F Enterprise. X & F Enterprise was served but did not file any responsive pleadings. In September 2011, the circuit court entered a default judgment in favor of Allen and against X & F Enterprise. (The September 2011 default judgment). Ten years passed and Allen did not file a motion to revive the judgment under section 516.350, RSMo.

In December 2021, X & F Enterprise filed a petition for a declaratory judgment against Allen. (Declaratory judgment case). Relying on section 516.350 which creates a presumption that judgments are paid and satisfied after ten years, absent timely revival, X & F Enterprise requested a declaration that the September 2011 default judgment was deemed paid and satisfied. The declaratory judgment case was assigned to a different division than the September 2011 default judgment case and it remained in that division. (This division hereinafter referred to as "the tolling court.").

In response to the petition for declaratory judgment, Allen filed an answer, defenses, and counterclaim. Allen argued that because of X & F Enterprise's actions and conduct, the ten-year term for the presumption of payment under section 516.350.1 should be equitably tolled. Subsequently, after X & F Enterprise failed to comply with a discovery order, the tolling court dismissed X & F Enterprise's petition for declaratory judgment. The tolling court also entered a declaratory judgment in favor of Allen on her counterclaim against X & F Enterprise, and it equitably tolled the ten-year term for the presumption of payment under section 516.350.1. (October 2022 tolling judgment). X & F Enterprise did not appeal the tolling court's October 2022 tolling judgment.

In May 2023, in the September 2011 default judgment case, Allen filed a motion for revival of the default judgment entered against X & F Enterprise. A show-cause hearing was held and X & F Enterprise failed to appear. The revival court entered a

special order after final judgment ordering the September 2011 default judgment revived in full, specifically relying on the tolling court's judgment.

In three points on appeal, X & F Enterprise challenges both the revival court's order and the separate October 2022 tolling judgment. X & F Enterprise contends that neither court had "subject matter jurisdiction" or authority to enter those judgments.

AFFIRMED.

Division Four holds:

1. X & F Enterprise frames its arguments in terms of jurisdiction and authority, but its real complaint in this appeal is that the tolling court misapplied the law when it equitably tolled section 516.350's time limitation to revive a judgment. While the tolling court may have improperly tolled the ten-year time limitation for revival, that issue is beyond our authority to determine in this appeal. Even if the tolling court made a mistake tolling section 516.350's time limitation for reviving a judgment, this was an error of law, not of jurisdiction, and any mistake of law should have been addressed on direct appeal. If X & F Enterprise had complaints about a mistake of law in the tolling court's October 2022 tolling judgment, its recourse was a direct appeal of *that* judgment.

2. The tolling court had subject matter jurisdiction over the action, personal jurisdiction over the parties, complied with the parties' due process rights, and the October 2022 tolling judgment is final. Therefore, the October 2022 tolling judgment is not void and consequently, is not subject to collateral attack in this appeal.

3. The revival court did not err in enforcing and applying the tolling court's decision regarding tolling, and X & F Enterprise is precluded from challenging the tolling issue in this appeal under the doctrine of collateral estoppel.

Opinion by: Janet Sutton, Judge July 9, 2024

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