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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4371-14T2

ROBERT J. TRIFFIN,

Plaintiff-Appellant,

v.

JETRO HOLDINGS, LLC,
(d/b/a) JETRO, and
TYKEEYA B. MITCHELL,

Defendants,

and

JP MORGAN CHASE BANK,
N.A.,

Garnishee-Respondent.

Argued January 24, 2017 – Decided February 14, 2017

Before Judges Messano and Espinosa.

On appeal from the Superior Court of New
Jersey, Special Civil Part, Essex County,
Docket No. DC-16602-14.

Robert J. Triffin, appellant, argued the
cause pro se.

Thomas E. Stagg argued the cause for
respondent (Stagg, Terenzi, Confusione &

Wabnik, LLP, attorneys; Mr. Stagg and Owen
A. Kloter, on the brief).

PER CURIAM

Plaintiff Robert J. Triffin appeals from an order that denied his motion for an order to show cause why JPMorgan Chase Bank, N.A.¹ (JPMorgan) should not be found in contempt for its failure to comply with a turnover order. We affirm.

Triffin obtained a default judgment against defendant Jetro Holdings LLC in the underlying proceedings. Thereafter, he filed a request for execution, asking that "a 'Bank Levy' be issued in this matter for by [sic] an Essex County Court Officer upon JPMorgan Chase, N.A." The record reflects that, pursuant to a writ of execution, Vincent Bove, Court Officer, levied on the amount of \$654.91 held by JPMorgan on December 9, 2014. Triffin then filed a motion for an order for the turnover of funds levied upon by Bove.

N.J.S.A. 2A:17-63 states in pertinent part:

After a levy upon a debt due or accruing to the judgment debtor from a third person, herein called the garnishee, the court may upon notice to the garnishee and the judgment debtor . . . direct the debt, to an amount not exceeding the sum sufficient to satisfy the execution, to be paid to the officer holding the execution"

¹ Triffin erroneously identified the garnishee as JP Morgan Bank in the Order to Show Cause.

[(Emphasis added).]

As previously requested by Triffin, the "officer holding the execution" was an Essex County Officer. Therefore, pursuant to N.J.S.A. 2A:17-63, any order for the turnover of funds should have directed the payment of funds to the Essex County Officer. Nonetheless, Triffin asked the court to issue an order for the turnover of funds to be mailed directly to his address. The court entered Triffin's proposed order, erroneously granting that relief.²

When JPMorgan failed to send the funds directly to Triffin, he filed a notice of motion for JPMorgan to show cause why (1) it should not be found in contempt of the court's turnover order and (2) judgment should not be entered against JPMorgan for \$654.91 and costs. It is not disputed that JPMorgan Chase sent a check for the amount levied upon "to the officer holding the execution." N.J.S.A. 2A:17-63. That fact is included in both Triffin's certification of material facts in support of his motion and in

² This error was subsequently noted by Judge Ned M. Rosenberg, Supervising Judge of the Special Civil Part, who wrote a letter to Triffin stating the wording of his order directing the turnover of funds to his address was "inappropriate and contrary to those regulations which govern the court officers" and that the entry of the proposed order by another judge was "an oversight." Judge Rosenberg instructed Triffin to "refrain from any further filings with such proposed language."

the certification submitted by JPMorgan's attorney in opposition to plaintiff's motion.

The trial judge denied Triffin's motion. In his written statement of reasons, he cited the failure to include a verified complaint filed against JPMorgan pursuant to Rule 4:52-2 as grounds for the denial.

On appeal, Triffin argues that the trial judge abused his discretion in failing to comply with the standard applicable to a Rule 1:10-3 motion. He argues further that JPMorgan waived appellate review of the turnover order because it failed to oppose his motion for an order for the turnover of funds. JPMorgan argues that the trial court correctly denied Triffin's motion and that the appeal is moot because an amended order was entered in September 2015, correcting the error in the original order and directing JPMorgan to turn over the funds to the court officer.³ After reviewing Triffin's arguments in light of the record and applicable principles of law, we conclude they lack sufficient merit to warrant discussion beyond the following brief comments. R. 2:11-3(e)(1)(E).

³ The amended order was entered approximately seven months after the original turnover order, after JPMorgan had turned over the funds to the court officer – and four months after the notice of appeal was filed. See R. 2:9-1(a) ("[T]he supervision and control of the proceedings on appeal . . . shall be in the appellate court from the time the appeal is taken")

"[A]ppeals are taken from orders and judgments and not from opinions, oral decisions, informal written decisions, or reasons given for the ultimate conclusion." Do-Wop Corp. v. City of Rahway, 168 N.J. 191, 199 (2001). Therefore, although we do not agree with the trial court's reasons for denying relief, we affirm because the result was correct. See Velazquez v. Jiminez, 336 N.J. Super. 10, 43 (App. Div. 2000), aff'd, 172 N.J. 240 (2002).

Triffin argues that he was entitled to relief pursuant to Rule 1:10-3, based upon JPMorgan's failure to comply with the direction in the turnover order to pay the funds levied upon directly to him. Before any relief can be granted pursuant to this Rule, there would have to be a finding that JPMorgan Chase was a "willful violator" of the order. See In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 18 (2015); Schochet v. Schochet, 435 N.J. Super. 542, 548-49 (App. Div. 2014); Pressler & Verniero, Current N.J. Court Rules, comment 4.3 on R. 1:10-3 (2017) ("Before punitive or coercive relief can be afforded, the court must be satisfied that the party had the capacity to comply with the order and was willfully contumacious."). Therefore, if the failure was excusable, no relief is warranted.

While it is true that JPMorgan did not comply with the improper direction contained in Triffin's proposed order, the turnover of the funds levied upon "to the officer holding the

execution" complied with N.J.S.A. 2A:17-63. As a result, the facts preclude any finding of willfully contumacious conduct by JPMorgan and the relief sought by Triffin was properly denied.

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.



CLERK OF THE APPELLATE DIVISION