

3 LEONARD POZNER,

4 Plaintiff,

5 vs.

Case No. 18 CV 3122

6 JAMES FETZER, et al.,

7 Defendants.
8

9 (PROCEEDINGS WERE HELD VIA ZOOM VIDEO CONFERENCE)

10 DATE: April 25, 2024

11
12 BEFORE: The Honorable FRANK D. REMINGTON

13 PROCEEDINGS: Status Conference

14
15 APPEARANCES: RANDY J. PFLUM and EMILY M.
16 FEINSTEIN, Attorneys at Law,
17 Quarles & Brady, Madison,
Wisconsin, appeared on behalf of
the Plaintiff.

18 JAMES FETZER, Defendant, appeared
19 pro se.

20 OLIVIA JANE BROOKS, Attorney at
21 Law, Reinhart, Boerner, Van Deuren,
22 Milwaukee, Wisconsin, appeared on
behalf of State Bank of Cross
Plains, now doing business as Lake
Ridge Bank.

23
24 ANN M. ALBERT, RMR, CRR
25 Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: All right. This is case 18 CV 3122, Leonard Pozner versus James Fetzer. May have I have the appearance for the plaintiff first, please.

MR. PFLUM: Good morning, your Honor.

MR. FETZER: Yes.

THE COURT: Hang on, Mr. Fetzer.

MR. PFLUM: Good morning, your Honor. Attorney Randy Pflum of Quarles & Brady appears on behalf of Leonard Pozner. And also with me appearing by Zoom is Attorney Emily Feinstein.

THE COURT: And for the defendant?

MR. FETZER: Yes, your Honor. James Fetzer representing himself.

THE COURT: All right. And we have Ms. Brooks. Ms. Brooks, are you sort of like --

MS. BROOKS: Yes, your Honor. I represent garnishee State Bank of Cross Plains, which is now doing business as Lake Ridge Bank. I'm just here to -- I don't know what's going on in this case. I want to make sure I'm up to speed as well on many of the bank's obligations as garnishee here.

THE COURT: Thank you, Ms. Brooks. Welcome. And James Fetzer appears.

A couple of preliminary matters, Mr. Pflum, Ms.

1 Feinstein. The Court received a fax purportedly from
2 Dr. Fetzer that contained child pornography. I turned
3 that over to my bailiff, who turned it over to
4 investigators with the Dane County Sheriff's
5 Department, who I understand or I was told came out to
6 see you, Dr. Fetzer. And I was told that, Doctor, you
7 denied sending the fax, that you felt it was abhorrent
8 behavior and, in other words, claimed that you had
9 nothing to do with the transmission of child
10 pornography through the facsimile mail system.

11 MR. FETZER: That's correct, your Honor. It had
12 a fake ID. I mean, this kind of stuff is child's play
13 for anyone who's familiar with the internet. I had
14 nothing to do with it, your Honor. I condemn it, and
15 it was an obvious effort to smear me in the eyes of
16 the Court.

17 THE COURT: Well, it didn't really work,
18 Dr. Fetzer. Here's what I thought when I first got
19 it. It appeared to me rather childish. Mr. Pflum,
20 Ms. Feinstein, you didn't see it, but truth be told,
21 the fax was a fax of a photocopy of a photocopy and,
22 quite honestly, one would have to strain their eyes to
23 discern the pornographic nature of it.

24 I think a lot of things, Dr. Fetzer, of you and
25 the positions you hold. I didn't actually -- I

1 quickly came to the conclusion that I felt that you
2 had nothing to do with it by nature of its simplicity
3 and it's sort of patent unbelievable. I mean,
4 Dr. Fetzer, if you were gonna send child pornography
5 by facsimile, I don't think you'd put your name on it,
6 truth be told.

7 So we followed up. I want to assure you,
8 Dr. Fetzer, I didn't think it came from you. And that
9 I received it from someone bears no relevance and
10 plays no part in how I decide the issues in this case.
11 I do think it came from someone else. It's disturbing
12 in that somebody else thinks that a fax containing
13 child pornography with your name on it somehow or
14 another affects me, the system. It does not. But I
15 just wanted to raise that, Mr. Pflum and Ms.
16 Feinstein, because there was communications, albeit
17 indirect, between the court system, the Sheriff's
18 Department, and I just wanted to alert you to that
19 with the final conclusion and say no more that it has
20 no bearing and plays no part and doesn't affect my
21 decision moving forward in this case.

22 Second, we're on the Court's calendar because
23 I'm remanded. I think the appropriate order on remand
24 is for the Court to vacate its order garnishing the
25 monies held by then State Bank of Cross Plains for the

1 reasons stated in the appellate decision. Do you
2 agree, Mr. Pflum?

3 MR. PFLUM: Yes, your Honor. I believe that's
4 correct.

5 THE COURT: All right. Third, then what to do
6 going forward?

7 Ms. Brooks, does -- has -- all the time this
8 case has been working through the appellate court, has
9 the State Bank been holding Dr. Fetzer's money? Does
10 it still hold Dr. Fetzer's money?

11 MS. BROOKS: Your Honor, no. I was looking back
12 through emails, and we were advised by plaintiff's
13 attorneys that UW Credit Union had disbursed the
14 funds, and we were authorized to release the hold that
15 Lake Ridge Bank had on them. So there's not been a
16 hold.

17 THE COURT: All right. So what do we do today,
18 Mr. Pflum?

19 MR. PFLUM: Well, your Honor, I think it's
20 appropriate -- we think it's appropriate to set an
21 evidentiary hearing on plaintiff's motion to disburse
22 funds which was filed a year ago today in document 557
23 and Dr. Fetzer's objection thereto to have the Court
24 make a ruling on what funds are -- whether or not we
25 are entitled to the \$2,004.46, which I believe is now

1 held currently by Dr. Fetzer -- or excuse me --
2 Mr. Pozner.

3 THE COURT: Okay. Just so I can understand
4 context, I want to go back to March 17th. That was
5 the first garnishment hearing. At that time, I think
6 I determined then and I guess now State Bank of Cross
7 Plains was not involved, and at least at that time
8 Attorney Davenport logged off the hearing.

9 The Court addressed the issue of the funds in UW
10 Credit Union account. Attorney Pflum indicates Social
11 Security Administration benefits are not subject to
12 garnishment, but other funds are commingled, and they
13 are unable to tell what is subject to exemption.
14 Janice Fetzer, Dr. Fetzer's wife, was sworn and
15 testified.

16 The plaintiff in March asked the account history
17 for the UW Credit Union for all of 2022. I think I
18 ordered that be produced, 30 days to review. We had a
19 further discussion of two UW Credit Union accounts. I
20 directed Janice Fetzer to make copies of the UW Credit
21 Union bank statements for both accounts for the last
22 12 months and provide them to Attorney Pflum on or
23 before March 31st. I continued the hearing at that
24 time.

25 Now, here's the mistake I made. And I don't

1 have any problem saying I made a mistake. I did. And
2 for that, I apologize for the delay in taking this to
3 the Court of Appeals and back.

4 When we got back together on -- well, we didn't
5 get back together. I'm looking at the -- Mr. Pflum,
6 you submitted on April 25th an affidavit and you moved
7 to distribute the funds.

8 MR. PFLUM: Yes, your Honor. And I also
9 apologize to the Court. This motion should have
10 requested a hearing and then requested distribution of
11 funds. That's what our motion should have included.
12 Following the March 17th hearing, um, your Honor
13 ordered that I either -- so your Honor ordered three
14 things. First, Ms. Fetzer provide us with the bank
15 statements, which she did. I reviewed those, prepared
16 the motion to disburse funds, which I filed on April
17 25, 2023. And in that motion, I needed to ask the
18 Court whether -- to set a hearing to discuss the -- to
19 discuss whether or not we are in fact entitled to the
20 \$2,004.46. And that's what I was hoping to accomplish
21 today is to get that -- to get that hearing on the
22 Court's calendar.

23 THE COURT: So, um, the money that's in play, is
24 that -- is that held, the \$2,437.60, held by State
25 Bank of Cross Plains?

1 MR. PFLUM: No, your Honor. The \$2,004.46 is
2 currently held by the plaintiff, Mr. Pozner.

3 THE COURT: And how did Mr. Pozner get the
4 money?

5 MR. PFLUM: Based off of your order, UW Credit
6 Union cut him a check --

7 THE COURT: Okay. So it came out --

8 MR. PFLUM: -- which then --

9 THE COURT: All right. So I'm looking at
10 document number 557, which is your motion. And that's
11 on paragraph 10, that's how you come up with
12 \$2,004.46.

13 MR. PFLUM: Yes, your Honor. And I will note
14 for the Court that these numbers are based on a
15 further reconciliation by Ms. Fetzer of money flowing
16 in and out of her UW account and then also looking in
17 the aggregate of at the time State Bank of Cross
18 Plains' answer showed that there were \$2,437 in that
19 account, and then Summit Credit Union's answer of
20 \$4,606.

21 THE COURT: All right. Well, of course, it goes
22 without saying -- I think you're implying this as
23 well, Mr. Pflum -- Mr. Pozner should hang on to
24 Dr. Fetzer's money until further order of the Court.

25 MR. PFLUM: Yes, your Honor.

1 THE COURT: It may be that he returns it or
2 keeps it, subject to further determinations after
3 briefing and opportunity occur.

4 Dr. Fetzner, so I think what is proposed and what
5 I understand needs to be done is turn back the hands
6 of time. The plaintiff filed a motion for
7 distribution of funds on April 25th of last year,
8 document number 557. That's the one which I acted on
9 without you having an opportunity to respond. I
10 propose we just issue -- set a briefing schedule on
11 the pending motion with a new date to return.

12 When can you respond to plaintiff's motion?

13 MR. FETZER: Well, I have in fact already
14 responded, your Honor, when I appealed to the Court of
15 Appeals for the Fourth District pointing out that,
16 with all respect to Attorneys Pflum and Feinstein,
17 this was sloppy, slovenly work. They were including a
18 reimbursement to the account from my daughter because
19 she had -- my wife, who's being reimbursed for
20 shopping, it included instructions for her, my wife's,
21 tax returns, your Honor. There was no merit
22 whatsoever, which I would have explained at the
23 hearing, had it been held.

24 If your Honor would simply review my submissions
25 to the Court, it's obvious there is nothing to this

1 but a form of harassment, which I'm becoming
2 increasingly aggravated about. This money should
3 never have been taken from the account. It deserves
4 to be returned. And it's a waste of the Court's time
5 and an abuse of the judicial process that this was
6 even brought, your Honor.

7 THE COURT: Dr. Fetzer, I don't have in my file
8 the documents that you filed in the Court of Appeals.
9 There are essentially two records. There is the
10 appellate record and the circuit court records. Now,
11 I might be able to find them, but I would feel a lot
12 better if you would just then resubmit to me in the
13 circuit court all the evidence and arguments you have
14 opposing the motion. It may be just you cutting and
15 pasting and submitting it. But then I'll know that I
16 won't make another mistake and be confused as to why
17 it is you believe I should deny the motion.

18 MR. FETZER: Yes. I'll be glad to do that, your
19 Honor. And incidentally, ten months ago I forwarded
20 Leonard Pozner a check for \$20,000, having sold our
21 vacation trailer, which Mr. Pflum had sought to put up
22 for auction by a judge, but had no bids for \$30,000,
23 which would have returned him \$15,000. We actually
24 decided we wanted to part with the trailer. I
25 notified him I was going to do that. When we sold the

1 trailer, I sent him a check for \$20,000. To the best
2 of my knowledge, that has never been formally
3 acknowledged by Mr. Pflum, and I would appreciate him
4 doing so here and now.

5 THE COURT: Okay. Let's come back to that in a
6 moment. Let me finish.

7 Dr. Fetzer, today is April 24th (sic). When can
8 you provide a response to plaintiff's motion?

9 MR. FETZER: Since the documents are already
10 written, your Honor, it could be done -- I can do it
11 this weekend.

12 THE COURT: Well, how about a week from today?

13 MR. FETZER: Yes.

14 THE COURT: May 1st. Oh, that's a week -- May
15 2nd.

16 Mr. Pflum, how many days thereafter for a reply?

17 MR. PFLUM: Ten days, your Honor.

18 THE COURT: May 13th.

19 Heather, let's have the parties come back for an
20 oral argument hearing and what I would assume, hope to
21 be an oral decision granting or denying it a couple
22 weeks thereafter.

23 MR. FETZER: This day of the week, your Honor,
24 works for me. I'm doing many shows on the internet,
25 but this Thursdays 10:00 p.m. (sic) is workable for

1 me, your Honor. So if we could stay on that Zoom
2 schedule, that will work.

3 THE COURT: All right. A Thursday, Heather.

4 THE CLERK: I don't have a Thursday in May. I
5 can go to June, if you'd like.

6 THE COURT: Okay. Let's accommodate Mr.

7 -- Dr. Fetzer's request for a Thursday.

8 THE CLERK: Okay. June 13th at 8:30?

9 MR. FETZER: No, no, no. It's gotta be at
10 10:00. I have a show at 9:00. I could not do it at
11 8:30. I just finished a show today, and I was glad
12 that it worked for the Court's schedule. So it needs
13 to be at 10:00.

14 THE COURT: Can it be 10:00 on any day, or just
15 Thursday?

16 MR. FETZER: No. Just Thursday, your Honor. I
17 have so many shows I'm doing on the internet. If it
18 were guaranteed to end in less than an hour, my first
19 show, Monday, Wednesday, Friday is at 11:00, so it
20 could be a Tuesday or a Thursday, your Honor.

21 THE COURT: I don't anticipate spending more
22 than an hour on a Zoom given that the parties will
23 have briefed the issue. So tell me what days and what
24 time do you prefer, Dr. Fetzer.

25 MR. FETZER: Well, as long as we're done by

1 11:00, I could do it any day of the week, your Honor.

2 THE COURT: Okay.

3 MR. FETZER: My preference is a Tuesday or a
4 Thursday, however, because there's a lot of
5 preparation involved in doing these programs.

6 THE CLERK: The 13th at 10:00 a.m.?

7 Mr. PFLUM: I'm sure the 13th does not work for
8 me. I have a conflict that day. I am free -- I'm
9 free June 6th, and then I'm also free June 20th. But
10 unfortunately, the 13th I'm not.

11 THE CLERK: We can't do either of those dates.
12 June 11th at 10:00 a.m.?

13 MR. FETZER: That works for me, your Honor, June
14 11th.

15 THE CLERK: One second, please.

16 MR. PFLUM: I'm sorry, folks. This is Randy
17 Pflum. I can do it at 11:00 -- I'm sorry -- at 10:00.

18 THE CLERK: 10:00.

19 MR. PFLUM: I can make that work.

20 THE CLERK: June 11th at 10:00.

21 MR. PFLUM: Thank you. Thank you very much.

22 THE COURT: Now, I hesitate to sort of step into
23 this issue of -- Mr. Pflum, I think what Dr. Fetzer is
24 asking for is a document, a partial satisfaction, if
25 in fact the creditor received \$15,000 or \$20,000, that

1 would memorialize in the court record a partial
2 satisfaction of judgment.

3 MR. PFLUM: Understood, your Honor. Yes, we did
4 receive \$20,000 from Mr. Fetzer's sale of his mobile
5 home, but I'm happy to put that partial satisfaction
6 on the record, or on the court's record.

7 THE COURT: Do that within ten days.

8 MR. PFLUM: Understood.

9 THE COURT: Dr. Fetzer, what that is is it's a
10 single piece of paper. It's a common business form
11 and can be created. That is a written record that the
12 judgment is partially satisfied, acknowledging receipt
13 of those funds. The plaintiff will do that within the
14 next ten days.

15 MR. FETZER: I appreciate that, your Honor.

16 THE COURT: Okay. Anything further, Mr. Pflum,
17 for us this morning?

18 MR. PFLUM: No, your Honor.

19 THE COURT: Dr. Fetzer, anything further?

20 MR. FETZER: We're good, your Honor.

21 THE COURT: All right. Ms. Brooks, do you have
22 anything you need from the Court?

23 MS. BROOKS: I guess I'm a little bit -- I'm
24 curious as to whether anybody has any belief that
25 State Bank of Cross Plains, Lake Ridge Bank should be

1 holding any funds 'cause they have been released as of
2 last May.

3 THE COURT: I think the answer is no; right,
4 Mr. Pflum?

5 MR. PFLUM: Correct because the funds subject to
6 this are currently being held by Mr. Pozner.

7 MS. BROOKS: Okay. I just want to make sure I
8 understand the bank's obligations here. So if that
9 changes, let me know and I would have to obviously
10 investigate the current status of the account. I
11 don't know -- I don't know what that is. So just keep
12 me posted, Attorney Pflum. I won't plan to attend any
13 more hearings, and I'll just wait to hear from you or
14 from the Court.

15 THE COURT: I assume that this is a
16 retrospective analysis of a garnishment that occurred
17 at a point in time in the past. State Bank of Cross
18 Plains has discharged its obligations under the law.
19 To the extent that State Bank of Cross Plains is
20 implicated further, it would be only after the filing
21 a new and separate garnishment proceeding, and at that
22 time, Ms. Brooks, the State Bank, the bank, would, as
23 any other bank would, undertake an inquiry as to what
24 funds are being held and respond then and there
25 appropriately directly to the garnishee -- garnishee?

1 Garnishor? One of the ee's or or's.

2 MS. BROOKS: Garnishor. I appreciate that
3 clarification, your Honor. That helps a lot.

4 THE COURT: All right. Have a good rest of the
5 day. We're adjourned.

6

7 STATE OF WISCONSIN)
8 COUNTY OF DANE) ss:
9)

10 I, ANN M. ALBERT, Court Reporter, do hereby
11 certify that I reported in stenographic machine
12 shorthand the hearing held in the above-entitled
13 matter before the Honorable FRANK D. REMINGTON, on the
14 25th day of April, 2024, and that the foregoing is an
15 accurate and complete transcript of my shorthand notes
16 and the whole thereof.

17 Dated this 26th day of April, 2024.

18 Electronically signed by:

19 *Ann M Albert*
20 Court Reporter

21

22

23

24

25