



COMMONWEALTH of VIRGINIA

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The Honorable Rex A. Davis
Clerk of the Circuit Court for the City of Newport News
2500 Washington Avenue
Newport News, Virginia 23607-4307

Dear Mr. Davis:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issues Presented

You ask whether § 8.01-456 applies to the discharge of a judgment when the creditor refuses to accept payment from the debtor. You also ask whether § 8.01-456 applies to the satisfaction of judgments obtained in general district courts that are not docketed in a circuit court.

Response

It is my opinion that § 8.01-456 does not apply to the discharge of a judgment where the creditor refuses to accept payment from the debtor or to the satisfaction of a judgment obtained in general district courts that is not docketed in a circuit court.

Background

You note that although § 8.01-456 provides for the satisfaction of judgments where the creditors cannot be located, no corresponding remedy is provided for judgment creditors who refuse to accept payment. You also note that § 8.01-456 includes requirements for "an order entered of record," along with entry "upon the judgment docket" of "the number and page of the order book in which it is entered." You relate that these requirements have created uncertainty regarding the application of § 8.01-456 to satisfy judgments obtained in general district court that are not docketed in any circuit court.

Applicable Law and Discussion

When a statute is clear and unambiguous, the rules of statutory construction dictate that the statute is interpreted according to its plain language.¹ Section 8.01-456, both in its title² and by its terms, clearly applies to the satisfaction of a judgment when the creditor cannot be located:

¹Va. Polytechnic Inst. v. Interactive Return Serv., Inc., 271 Va. 304, 309, 626 S.E.2d 436, 438 (2006).

²Section 8.01-456 is titled "[s]atisfaction of judgment when judgment creditor cannot be located."

Whenever a judgment debtor or anyone for him or any party liable on the judgment wishes to pay off and discharge a judgment, of record in any clerk's office in this Commonwealth, *when the judgment creditor cannot be located*, he may do so by paying into the court ... an amount sufficient to pay ... all costs due thereupon [Emphasis added.]

The section is not applicable in any other circumstance. When a statute creates a specific grant of authority, the authority exists only to the extent specifically granted in the statute.³ Where a statute specifies certain things, the intention to exclude that which is not specified may be inferred.⁴ Had the General Assembly intended that § 8.01-456 apply to the satisfaction of judgments where the judgment creditor refused to accept payment, it could have so specified.⁵ Since the General Assembly did not include such a provision in § 8.01-456, I must conclude that § 8.01-456 may not be applied to satisfy a judgment when the judgment creditor refuses to accept payment.

Next, you ask whether § 8.01-456 applies to general district court judgments that are not docketed in a circuit court. Chapter 17 of Title 8.01, §§ 8.01-426 through 8.01-465, governs judgments docketed in the circuit courts.⁶ Section 8.01-456 clearly states that it applies to satisfaction of judgments docketed in courts "of record,"⁷ including requirements for "an order entered of record," for entry of payment information "upon the judgment docket, where the judgment is docketed," and for inclusion of "the number and page of the order book in which it is entered." "[I]n interpreting a statute, [courts] are required to 'ascertain and give effect to the intention of the legislature,' which is usually self-evident from the statutory language."⁸ The General Assembly has reserved to courts of record the procedure to satisfy a judgment where the creditor cannot be located. Thus, § 8.01-456 is not applicable to the satisfaction of a judgment that is not docketed in circuit court. Therefore, a judgment debtor cannot employ the process set forth in § 8.01-456 to satisfy a judgment entered only in general district court. Should such judgment thereafter be docketed in a circuit court,⁹ the debtor may apply for relief under § 8.01-456.

³ See 2A NORMAN J. SINGER, SUTHERLAND STATUTORY CONSTRUCTION § 47:23 (6th ed. 2000) (explaining maxim of statutory construction, *expressio unius est exclusio alterius*); Op. Va. Att'y Gen.: 2002 at 117, 118; 1992 at 145, 146; 1989 at 252, 253; 1980-1981 at 209, 209-10.

⁴ See *id.*; 1999 Op. Va. Att'y Gen. 215, 217-18.

⁵ See, e.g., VA. CODE ANN. § 55-66.5(B) (2003) (providing for release of certain liens recorded in circuit court where "tender has been made of the sum due thereon but has been refused for any reason by the party or parties to whom due"); see also 2005 Op. Va. Att'y Gen. 78, 79 n.6, and opinions cited therein (noting that when General Assembly intends statute to impose requirements, it knows how to express its intention).

⁶ See 2002 Op. Va. Att'y Gen. 148, 149.

⁷ The use of the term "of record" in this context is a term of art used to denote courts of record. "[A] word in a statute is to be given its everyday, ordinary meaning unless the word is a [term] of art." *Stein v. Commonwealth*, 12 Va. App. 65, 69, 402 S.E.2d 238, 241 (1991).

⁸ *Virginia Polytechnic*, 271 Va. at 309, 626 S.E.2d at 438 (quoting *Chase v. DaimlerChrysler Corp.*, 266 Va. 544, 547, 587 S.E.2d 521, 522 (2003)).

⁹ I note, however, that § 16.1-69.55(B)(4) does not provide for the debtor/defendant to docket a general district court judgment in the circuit court.

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When statutes are expressed in clear and unambiguous language, whether general or limited, it is presumed that the General Assembly means what it plainly has expressed, and no room is left for construction.¹⁰ Applying the clear language of the statutes pertinent to your inquiries, § 8.01-456 does not apply to the satisfaction of judgments where the creditor refuses to accept payment or to general district court judgments that are not docketed in a circuit court.

Conclusion

Accordingly, it is my opinion that § 8.01-456 does not apply to the discharge of a judgment where the creditor refuses to accept payment from the debtor or to the satisfaction of a judgment obtained in general district courts that is not docketed in a circuit court.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. McDonnell". The signature is written in a cursive, flowing style with some capital letters.

Robert F. McDonnell

2:719; 1:941/06-038

¹⁰Town of S. Hill v. Allen, 177 Va. 154, 165, 12 S.E.2d 770, 774 (1941).