

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

RONNIE MYERS,

Plaintiff,

v.

**CIVIL ACTION NO. 17-CAP-022
(Magistrate Court Case No. 17-M06C-02546)
(Judge Christopher D. Chiles)**

JASON FARLEY,

Defendant.

ORDER

On the 26th day of January, 2018, and continuing thereafter on the 9th day of February, 2018, this Appeal by Defendant Jason Farley of the Magistrate Court ruling below denying said Defendant's Motion To Set Aside Judgment came on for hearing before the Honorable Christopher D. Chiles, Circuit Judge, pursuant to proper notice to all parties. Appearing were Plaintiff below, Ronnie Myers, in person and by counsel, Charles W. Peoples, Jr., and Defendant Jason Farley, in person, pro se. Whereupon, the parties and all witnesses appearing were duly sworn and testimony and evidence was introduced by and on behalf of Defendant and Plaintiff on the issue of whether Defendant was properly served with the Summons and Complaint in the Magistrate Court Action below. Defendant testified in his own behalf that he was not personally served with Summons and Complaint or, in the alternative, that the return of service as filed with the Clerk was improper and, as such, voidable. Plaintiff introduced credible testimony from a qualified private process server, Barr & Associates, that Defendant misrepresented his identity, denying he was Jason Farley, on two distinct occasions when efforts were made to serve him

with the Summons and Complaint. In addition, Plaintiff introduced credible testimony from another qualified private process server engaged by Plaintiff, Albert Cremeans, that he served the Defendant with the Summons and Complaint in person on November 5, 2017, personally identifying Defendant as the person so served with process. In response to Defendant's assertion that the Notary's acknowledgment of the process server's signature on the return of service was faulty, Plaintiff introduced credible testimony from the Notary who acknowledged the signature, establishing that the acknowledgment was in fact proper and not voidable. Having considered the exhibits and the credible testimony with respect to the issues raised, the Court is of the opinion the evidence is clear and convincing that Defendant was properly served with the Summons and Complaint in the action below on November 5, 2017.

It is, therefore, **ORDERED** and **ADJUDGED**, that the Motion To Set Aside the Judgment below is denied and this appeal is dismissed from the docket of this Court. To all of which, Defendant excepts and objects.

The Clerk is directed to mail a certified copy of this Order upon entry to the parties and counsel as follows:

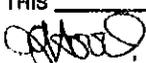
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P.O. Box 2854
Huntington, WV 25728

Jason Farley
2037 8th Avenue
Huntington, WV 25703

Ronnie Myers
P.O. Box 2885
Huntington, WV 25728

ORDER:

ENTER: /s/ CHRISTOPHER D. CHILES
CIRCUIT JUDGE

STATE OF WEST VIRGINIA
COUNTY OF CABELL
I, JEFFREY E. HOOD, CLERK OF THE CIRCUIT COURT FOR THE COUNTY AND STATE AFORESAID DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY FROM THE RECORDS OF SAID COURT. ENTERED ON FEB 13 2018
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS FEB 13 2018
 CLERK
CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

PREPARED BY:

CHARLES W. PEOPLES, JR.

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counsel for Plaintiff