

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EVER JOSELIN AREVALO,  
Appellant,  
vs.  
THE STATE OF NEVADA  
DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, DIVISION OF  
WELFARE & SUPPORTIVE SERVICES;  
AND AMY PROCTOR,  
Respondents.

No. 69816

**FILED**

DEC 28 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order releasing funds in an attachment proceeding. Eighth Judicial District Court, Clark County; Vincent Ochoa, Judge.

Respondent Nevada Department of Health and Human Services, Division of Welfare and Supportive Services (DWSS) issued a notice of lien and attachment to the Nevada Department of Corrections (NDOC), directing the seizure of funds in appellant Ever Joselin Arevalo's inmate trust account based on NRS 425.460 and NRS 425.470, which permit DWSS to attach assets held in a "financial institution" by a parent who is in arrears on a child support obligation. Arevalo requested a hearing to dispute the attachment, arguing, as relevant here, that the NDOC was not a financial institution. The hearing master recommended that DWSS brief the issue, and DWSS objected, asserting that the NDOC, which was not a party to the proceedings, should be the one to prepare any such brief because it was the entity that remitted the funds to DWSS. The

district court sustained the objection and ordered Arevalo's attached funds released to DWSS. This appeal followed.<sup>1</sup>

On appeal, Arevalo argues that DWSS, as the entity that issued the notice of attachment on the NDOC, should have been required to address whether it issued that notice on a proper entity. As it did below, DWSS asserts that Arevalo should have addressed this matter to the NDOC.<sup>2</sup> In this regard, DWSS asserts that the NDOC's remission of the funds indicates that it considered itself to be a financial institution within the meaning of the statute, but DWSS does not explain how it was improper for the hearing master to require DWSS to demonstrate that its service of the notice of lien and attachment on the NDOC was proper.

As the enforcing authority, DWSS was the party to which Arevalo's objections were properly directed. See NRS 425.470(5), (6) (setting forth the procedure to dispute an attachment based on NRS 425.470(2)(b)); cf. NRS 21.112 (providing for the automatic release of funds if a judgment creditor does not object to a judgment debtor's claim of

---


<sup>1</sup>We grant Arevalo's December 19, 2016, motion for leave to file a reply brief. The clerk of the court shall file the reply brief provisionally received on December 19, 2016.


<sup>2</sup>DWSS also asserts that it is not necessary to address whether the NDOC is a financial institution because it remitted the funds pursuant to NRS 209.247, which permits the Director of the NDOC to deduct money from an inmate's account for support of the inmate's family. But DWSS did not present this argument in the district court, and nothing in the record demonstrates that either DWSS or the NDOC relied on NRS 209.247 in attaching Arevalo's funds. Thus, we do not address this contention further in this order. See *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

exemption from execution). Consequently, we conclude that the hearing master properly ordered DWSS to address the question of whether it had issued the notice of lien and attachment on a proper entity and that the district court improperly sustained DWSS's objection in this regard. See NRS 425.470(5), (6).

Thus, we reverse the district court's order sustaining DWSS's objection and releasing Arevalo's attached funds to DWSS and remand this matter to the district court with instructions to remand it to the hearing master for further proceedings consistent with this order.<sup>3</sup>

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Vincent Ochoa, District Judge  
Ever Joselin Arevalo  
Clark County District Attorney/Family Support Division  
Eighth District Court Clerk

---

<sup>3</sup>The parties also present several arguments on appeal with regard to the propriety of DWSS attaching funds in Arevalo's inmate trust account. Because DWSS refused to brief these matters during the underlying proceeding, neither the hearing master nor the district court ruled on them, and, therefore, we do not reach them in the context of this appeal. See *N. Nev. Ass'n of Injured Workers v. Nev. State Indus. Ins. Sys.*, 107 Nev. 108, 111 n.3, 807 P.2d 728, 730 n.3 (1991) (declining to address an issue on which the district court did not rule).