

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN AND
FOR LEON COUNTY, FLORIDA

IN RE ASSIGNMENT OF CERTAIN
LOTTERY PAYMENTS OF CARL
DORELIEN

CASE NO. 04-CA-000559
GENERAL JURISDICTION DIVISION

MARIE JEANNE JEAN,

Plaintiff,

v.

CARL DORELIEN,

Defendant.

**ORDER GRANTING MARIE JEANNE JEAN'S RENEWED
MOTION FOR ENFORCEMENT OF MONEY JUDGMENT,
AND DENYING DORELIEN'S MOTION FOR RELIEF FROM JUDGMENT**

This cause having come to be heard upon the Renewed Motion of Plaintiff Marie Jeanne Jean ("Jean") for Enforcement of Money Judgment the Florida judgment previously entered by this Court against certain lottery monies held in escrow by order of this Court, and upon the Motion of Defendant Carl Dorelien ("Dorelien") for Relief from Judgment. The Court has reviewed the written submissions of the parties, and held an evidentiary hearing at which time expert testimony was taken, and argument of counsel was heard. The Court has also reviewed certain Haitian legal documents, and the translations for them, and has entered those in the record as exhibits.

The Court first notes that Jean's motion to enforce the judgment is purely a custodial act at this stage of the proceedings, as the judgment is a valid Florida judgment, and is enforceable as any other Florida judgment. This includes against the lottery monies being held in escrow, and the only reason that Jean has requested the enforcement relief from this Court is that the

Court instructed her to do so at the time enforcement of that judgment was sought against those lottery monies. Therefore, the only way in which the judgment may not be enforced is if Dorelien is successful in his motion to void or set aside the judgment or otherwise obtain relief from it pursuant to Florida Rule of Civil Procedure 1.540. Although Dorelien's motion cites Florida Rule of Civil Procedure 1.540(b)(1) that citation would appear to be erroneous, and Dorelien has agreed that instead, Dorelien seeks to proceed under Florida Rule of Civil 1.540(b)(4) and (5).

In support of his motion, Dorelien submits several court documents from the courts of the Republic of Haiti. Dorelien argues that these documents void or set aside, or grant other relief that would make unenforceable, the original judgment against him that was domesticated by Jean and provides the basis for the Florida judgment against Dorelien. Jean argues that these Haitian court documents do not have the effect of voiding or setting aside or otherwise affecting in any way the underlying judgment against Dorelien, and therefore cannot be the grounds for any relief with regard to the Florida judgment. For the reasons stated, the Court agrees with Jean.

The Court has heard testimony from experts for each of the litigants. Camille LeBlanc testified for Jean. Mr. LeBlanc is a former Minister of Justice of Haiti, and has lectured extensively on the laws of Haiti, both in Haiti, and in international forums, including the United Nations. The Court finds that Mr. LeBlanc is a credible and competent expert on Haitian law, and for the reasons described herein finds his testimony to be persuasive as to the effect, or rather the lack of effect, of the Haitian papers submitted by Dorelien as to the underlying judgment in this case.

Dorelien submitted the testimony of Joseph DuPlan, a Haitian lawyer, and president of the Haitian Bar Association. Mr. DuPlan offered his version of the effect of the Haitian legal

papers submitted by Dorelien. The Court disagrees with this version and does not find persuasive the testimony of Mr. DuPlan as to the effect of those documents.

As to the specific documents submitted, the Court first considers the decision of the Supreme Court of Haiti. This decision on its very face obviously does not affect Dorelien, or any judgment against him. Dorelien was clearly not a party to the appeal, and the decision does not discuss his case or any appeal by him. It became obvious from the expert testimony of both experts that this was because Dorelien could not, under Haitian procedural rules, participate in any such appeal. Therefore, the Court finds that the decision of the Supreme Court of Haiti does not have any effect on Dorelien or the underlying judgment against him that provided the basis for the Florida judgment in this case.

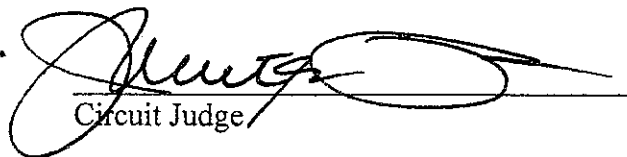
A second document submitted by Dorelien in support of his motion is a decision of the Court of First Instance of Gonaives. The experts agreed that this is a trial court under the Haitian justice system. Dorelien argues that this opinion provides legal authority for the application of the Supreme Court decision to his case, and therefore sets aside or voids, or otherwise grants relief to Dorelien as to the underlying judgment. The Court finds that this is a most irregular document, according to the testimony of both experts – including their discussion of the court's procedure – and the text of the document itself. There appears to be no reason for a trial court to enter the sort of ruling that is contained in the decision. The decision speaks of his criminal law problems, but does not speak of the civil law judgment against him. The Court also finds that the testimony offered by the experts acknowledges that in Haiti there are difficult and shifting political pressures, including upon members of the judiciary in Haiti. According to Mr. LeBlanc, the decision describes a proceeding analogous to our habeas corpus proceeding that would only result in freeing Mr. Dorelien were he in custody. But the evidence was clear

that he was not in custody. Therefore, this curious proceeding would not appear to have any effect on the civil judgment against Dorelien that underlies the judgment in this case. These political pressures could well result in the issuance of the kind of court document reflected in the Court of First Instance decision. In any event, the decision has no effect on the judgment against Dorelien.

Finally, a certificate from the Clerk of the Court of First Instance in Gonaives was also offered by Dorelien as evidence of the voiding of the judgment against him. This would appear to be in the nature of an affidavit, but also would purport to offer a legal conclusion. From the testimony of Mr. LeBlanc, which this Court finds persuasive, a clerk of the court in Haiti operates in much the same way as the clerk of the court in Florida and throughout the United States. The clerk does not have the power to issue interpretive rulings, but has merely the custodial power to acknowledge the existence of certain documents. Therefore, I can place no weight on the purported opinion of the clerk as to the effect of any legal judgments, and thus the certificate does not support setting aside of the judgment as Dorelien argues.

Based on these findings, and because Dorelien has not provided sufficient evidence that the Court should overturn its prior ruling that Jean has an enforceable Florida judgment, the Court **DENIES** the Motion for Relief from Judgment of Dorelien, and **GRANTS** the Renewed Motion for Enforcement of Money Judgment against Dorelien. Jean may enforce the judgment by presentation of the judgment to the financial institution holding the funds in escrow for payment.

Done + ordered Aug. 17, 2006.


Circuit Judge

Copies to:

Counsel of Record

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN AND
FOR LEON COUNTY, FLORIDA.

GENERAL JURISDICTION DIVISION

CASE NO. 04-CA-000559

IN RE ASSIGNMENT OF CERTAIN
LOTTERY PAYMENTS OF
CARL DORELIEN

MARIE JEANNE JEAN, Plaintiff,

CASE NO. 04-CA-001525

v.

CARL DORELIEN, Defendant.

ORDER RECOGNIZING FOREIGN JUDGMENT

This cause having come to be heard upon Plaintiff Marie Jeanne Jean's Motion for Order as to Foreign Judgment, the Court having considered the submissions of the parties, having heard argument, and otherwise being fully advised in the premises, it is hereby:

ORDERED and ADJUDGED:

1. The Court finds that Plaintiff Marie Jeanne Jean has complied with Florida Statutes, Section 55.601-55.607, also known as the Uniform Out of Country Foreign Money Judgment Recognition Act. Plaintiff has properly recorded the Foreign Judgment and necessary affidavit and supporting documentation, and notice has been provided to the Debtor.

2. The Judgment Debtor failed to file any objection with the Clerk of the Court within the thirty day period provided by Florida Statutes §55.604(2).

3. The Clerk of the Court has recorded a Certificate stating that no objection has been filed.

4. Therefore, the Court, at the request of Plaintiff, provides this Order Recognizing Foreign Judgment, and orders that the Judgment shall be enforced in the State of Florida in the same manner as a Judgment of this Court.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this 3rd

day of December 2004.


CIRCUIT JUDGE

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LOTTERY PAYMENTS OF
CARL DORELIEN

MARIE JEANNE JEAN, Plaintiff,

CASE NO. 04-CA-001525

v.

CARL DORELIEN, Defendant.

**ORDER DENYING DEFENDANT'S MOTION
FOR RELIEF FROM JUDGMENT, LEAVE TO FILE OBJECTIONS**

This cause having come to be heard upon Defendant Carl Dorelien's Motion for Relief from Judgment, Leave to File Objections, and the Court having considered the submissions of the parties, having heard argument, and otherwise being fully advised in the premises, the Court finds

1. That Plaintiff in this case, Marie Jeanne Jean, has fully complied with all of the provisions of Florida Statutes, Section 55.601-55.607, the Uniform Out of Country Foreign Money Judgment Recognition Act.

2. Plaintiff has properly recorded a Foreign Judgment from the courts of the Republic of Haiti, including all supporting documentation. The Clerk of this Court has, in compliance with the statute, mailed notice of recording a foreign judgment and counsel for Plaintiff has given additional notice to counsel for Defendant Carl Dorelein. It is clear that notice was received by Carl Dorelien's counsel no later than 8 July 2004.

3. Florida Statutes §55.604(2) provides that a judgment debtor such as Dorelien shall have thirty days after service of such notice to file a notice of objection with the Clerk of the Court specifying grounds for nonrecognition or nonenforceability of the judgment. No such objections were filed with this Court within this thirty day period. In fact, no objections were filed by Dorelien until the 28th of September 2004, by way of the Motion at issue.

4. There is no basis and no legal reason stated in the Motion, or in argument of counsel for Dorelien, that would allow the filing of objections to this foreign judgment out of time.

5. The time periods provided for in the statute have run, and there can be no recognition of any objections filed after that time, nor can there be any hearing granted as to the merits of those objections.

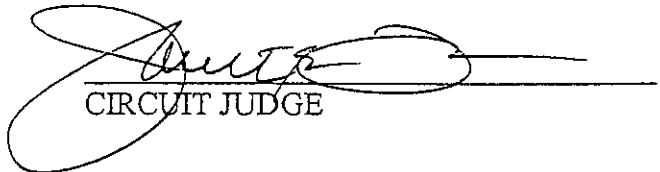
It is therefore,

ORDERED and ADJUDGED:

Defendant Carl Dorelien's Motion for Relief from Judgment, Leave to File Objections is:

DENIED.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this 3rd
day of December 2004.


CIRCUIT JUDGE

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