

2013 IL App (1st) 122079-U

THIRD DIVISION  
May 22, 2013

No. 1-12-2079

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

---

CITIBANK (SOUTH DAKOTA) N.A.,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 10 M1 130267
	)	
EDDIE L. RAINEY,	)	Honorable
	)	Dennis M. McGuire,
Defendant-Appellant.	)	Judge Presiding.

---

JUSTICE PIERCE delivered the judgment of the court.  
Presiding Justice Neville and Justice Sterba concurred in the judgment.

**ORDER**

¶ 1 *Held:* Circuit court properly reinstated a judgment for plaintiff Citibank (South Dakota) N.A. and against defendant Eddie L. Rainey, in the amount of \$7645.14 plus costs. Rainey has not included in the record on appeal a report of proceedings, a bystander's report, or an agreed statement of facts and therefore court would presume that the trial court's order conformed to the law and the facts.

¶ 2 On April 3, 2010, plaintiff Citibank (South Dakota) N.A. (Citibank), filed a complaint alleging that defendant Eddie L. Rainey was in default on his Citibank charge agreement.

Citibank sought judgment against defendant for \$8045.14 plus costs. On October 7, 2010, the parties entered into an agreed order to dismiss the action with leave to reinstate, subject to an

installment payment plan in which Rainey agreed to pay Citibank \$6137.46 in monthly payments of \$400, commencing on November 15, 2010. The order provided that if Rainey defaulted on his payments, Citibank would have leave of court to move to reinstate the cause and to have judgment entered against Rainey for the balance due.

¶ 3 Citibank filed an Internal Revenue Service (IRS) form 1099-C, which is designed in part to alert a debtor that a cancelled debt should be considered as income in reporting to the IRS. See *Cavoto v. Hayes*, 634 F. 3d 921, 922-23 (7<sup>th</sup> Cir. 2011). This notice was filed in error because Rainey's debt had not been canceled; it had been reduced to a specified amount, to be paid in monthly installments of \$400. The record does not establish the date on which this form was filed.<sup>1</sup> Citibank subsequently filed a corrected form 1099-C, stating that no debt had been canceled. Again, the record does not establish when this corrected form was filed.

¶ 4 On October 4, 2011, Citibank moved to reinstate the cause and enter judgment for Citibank in the amount of \$7645.14 plus costs. The motion alleged that Rainey had defaulted on his payments, and had paid only \$400 toward the balance owed Citibank. A hearing was held on April 11, 2012, and the court vacated the dismissal of the cause and reinstated judgment for Citibank in the amount of \$7645.14 plus costs. The order recited that Rainey was not in court for the hearing. The memorandum of orders indicates that Rainey filed a motion to reconsider on April 23, 2012, which the court denied on June 21, 2012. This timely appeal ensued.

¶ 5 Rainey alleges that Citibank should be estopped from obtaining a judgment against him because it filed a notice of cancellation of the debt. Clearly, the original notice of cancellation of a debt was filed in error, and Citibank subsequently corrected this error by filing a corrected form 1099-C. Furthermore, Rainey has not included in the record on appeal the report of proceedings

---

<sup>1</sup>Rainey has included in the record a "Citi" envelope with an illegible posting date. There is no indication what was contained in that envelope or to whom it was addressed.

1-12-2079

from the hearings below or a bystander's report or an agreed statement of facts. Ill. S. Ct. R. 323(c), (d) (eff. Dec. 13, 2005). Without a record of these proceedings, we cannot determine whether the trial court erred in reinstating the cause and entering judgment for Citibank. An appellant has the burden of presenting this court with trial court proceedings which are sufficiently complete to support his claims of error, and absent such a record, we will presume that the trial court's order conformed to the law and the facts. *In re Marriage of Gulla and Kanaval*, 234 Ill. 2d 414, 422 (2009); *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156-57 (2005). Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 6 This order is entered in accordance with Supreme Court Rule 23(c)(2) (eff. Jan 1, 2011).

¶ 7 Affirmed.