SIXTH DIVISION
November 9, 2018

No. 1-18-0043

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

U.S. BANK TRUST, N.A., as Trustee for LSF9 Master Participation Trust,	)	Appeal from the Circuit Court of Cook County
Plaintiff-Appellee,	)	
v.	)	No. 16 CH 5825
VALERIE F. TOLSON,	)	Honorable Michael F. Otto,
Defendant-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE DELORT delivered the judgment of the court.
Justices Cunningham and Harris concurred in the judgment.

ORDER

¶ 1 ***Held*:** We vacate the circuit court's denial of defendant's motion to quash service and remand for an evidentiary hearing.

¶ 2 In this residential mortgage foreclosure action, defendant Valerie Tolson appeals the circuit court's denial of her motion to quash service of process and her motion to reconsider. In her motion to quash, Tolson argues that the affidavit of the special process server describes service upon some unknown person, whose physical description differs significantly from her own. We vacate the order denying the motion to quash and remand for an evidentiary hearing.

¶ 3 BACKGROUND

¶ 4 Tolson's late mother was the owner and mortgagor of the residential property at issue. Eventually, the mother's loan fell into default. In violation of the mortgage's due-on-sale clause, the mother quitclaimed the property to herself and Tolson as joint tenants with right of survivorship. After the mother died, plaintiff U.S. Bank's predecessor filed a complaint to foreclose the mortgage, which named Tolson as "present owner" of the property and acknowledged that the original mortgagor was deceased.

¶ 5 The record contains an affidavit from a special process server stating that he served the complaint and summons upon Tolson personally on May 11, 2016. The affidavit describes Tolson as a 36-to-40-year-old black female with brown hair, between five-feet-eight-inches and five-feet-eleven-inches tall, and weighing between 151 and 170 pounds. The affidavit identifies the street address of the building where Tolson was served, but not the unit number.

¶ 6 Tolson did not file an appearance or otherwise respond to the summons. The circuit court defaulted Tolson for failure to appear and granted a motion to substitute U.S. Bank as plaintiff. The court entered an order of foreclosure and sale.

¶ 7 Tolson appeared in the case for the first time about a week later. Through counsel, she moved to quash service. Her motion contained an affidavit in which she states that at the time of the alleged service, she resided in unit 215S of a property with two buildings and hundreds of units. She also swears that at that time she "was 59 years of age, had red dyed hair, weighed 175 pounds and was five feet one inches tall." She also states that she was never been served with a summons or complaint in this case. No other evidence or affidavits were submitted with the motion.

¶ 8 Without an evidentiary hearing or briefing, the circuit court denied the motion to quash, finding that "there is no corroborating evidence attached to the motion and Defendant's affidavit by itself is insufficient." U.S. Bank then filed an amended affidavit of the process server, adding "Unit 215" to the address. After the judicial sale of the property, Tolson noticed an "amended motion to quash" for hearing, but the amended motion was nothing but a photocopy of her driver's license, apparently intended to serve as a new exhibit to her original motion. The court denied the amended motion to quash on the basis that one may not re-file serial motions that have been denied on the merits.

¶ 9 U.S. Bank filed a motion to confirm sale and sent notice to Tolson's counsel. On the date of presentment, Tolson was present in court but her counsel was not. The circuit court entered and continued the motion for one week for her counsel to appear. On the continued hearing date, the court entered an order confirming the sale and terminating the case. Neither the order nor the record includes any indication that Tolson or her counsel appeared on that date or made any objection to U.S. Bank's motion.

¶ 10 About a month later, Tolson, through a new attorney, filed a multi-faceted motion to "reconsider and/or set aside default and judgment of foreclosure and confirmation of judicial sale." The motion contained numerous assertions of fact and arguments that Tolson had never raised before. On October 17, 2017, the court entered an order striking the motion "without prejudice to re-filing, the Defendant having failed to provide courtesy copies to the court within the requisite time frame." Within two days, Tolson's second attorney re-noticed the motion for hearing on November 2. On that date, the court entered an order taking the motion under advisement.

¶ 11 On December 4, 2017, the circuit court entered a detailed order explaining the history of the case, the reasons for prior rulings, and denying the motion to reconsider. This appeal followed.

¶ 12 On January 3, 2018, Tolson filed a notice of appeal asking for reversal of five different orders. On January 19, she filed a motion before this court to "[a]ppeal the orders entered on March 31, 2017, June 8, 2017, July 20, 2017, August 25, 2017, and December 4, 2017 by the Circuit Court of Cook County, Illinois by Honorable Judge Otto." We treated the motion as a motion to amend the notice of appeal, and granted it, although the "amended" notice of appeal reflects the same five orders as in the original notice of appeal.

¶ 13 ANALYSIS

¶ 14 Appellate Jurisdiction

¶ 15 As a threshold matter, U.S. Bank argues that this court lacks jurisdiction to hear this appeal. An appellate court must always consider its own jurisdiction and dismiss an appeal if jurisdiction is lacking. *People v. Lewis*, 234 Ill. 2d 32, 36-37 (2009).

¶ 16 Under Illinois Supreme Court Rule 303(a)(1), notices of appeal must be filed within 30 days after the entry of final judgment or, if a postjudgment motion is filed, within 30 days "of the order disposing of the last pending postjudgement motion directed against that judgment". Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017). Section 2-1203(a) of the Code of Civil Procedure provides that in non-jury cases, "any party may, within 30 days after the entry of the judgment or within any further time the court may allow within the 30 days or any extensions thereof, file a motion for a rehearing, or a retrial, or modification of the judgment or to vacate the judgment or for other relief." 735 ILCS 5/2-1203(a) (West 2016). Once a trial court rules on the merits of a

postjudgment motion, the 30-day period for filing the notice of appeal commences to run. *VC & M, Ltd. v. Andrews*, 2013 IL 114445, ¶ 18.

¶ 17 U.S. Bank contends that the circuit court's October 17, 2017, order disposed of the pending postjudgment motion, and consequently marked the beginning of the 30-day period in which Tolson had to file her notice of appeal. Because the notice of appeal was filed more than 30 days after October 17, U.S. Bank argues that this appeal is not timely. We disagree.

¶ 18 The circuit court's August 25, 2017 order approving the sale and distribution was final and appealable. See *In re Marriage of Verdung*, 126 Ill. 2d 542, 555 (1989). From that date, Tolson had 30 days to file a motion to reconsider. 735 ILCS 5/2-1203 (West 2016). Section 1.11 of the Statute on Statutes provides, in relevant part, that:

> "[t]he time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday *** and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday *** is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded." 5 ILCS 70/1.11 (West 2016).

¶ 19 Because the thirtieth day after August 25 fell on Sunday, September 24, Tolson timely filed her motion to reconsider on Monday, September 25, 2017. On October 17, 2017, the circuit court entered an order striking her motion "without prejudice to re-filing" for failure to provide courtesy copies. The "without prejudice" language of the order shows that the court contemplated Tolson re-noticing her motion to reconsider. See, *e.g.*, *DeLuna v. Treister*, 185 Ill. 2d 565, 576 (1999) (noting that the inclusion of "without prejudice" in an order "signals the circuit court's intent to allow a plaintiff to refile an action"). The October 17 order, therefore, did

not dispose of Tolson's motion to reconsider on the merits. Rather than require her to file an improper and untimely second postjudgment motion, the court simply allowed her to re-notice her already-filed, timely motion. Tolson filed a new notice of motion two days later, and the court took the motion under advisement on November 2, 2017. The court finally disposed of the postjudgment motion on December 4, 2017. Tolson timely filed her notice of appeal on January 3, 2018, the thirtieth day after the final order.

¶ 20 U.S. Bank argues that the circuit court's inclusion of "without prejudice" has no effect because "neither the trial court nor the appellate court has the authority to excuse compliance with the filing requirements of the supreme court rules governing appeals." (Internal quotation marks omitted.) *Mitchell v. Fiat-Allis, Inc.*, 158 Ill. 2d 143, 150 (1994). However, the *Mitchell* case is factually dissimilar. In *Mitchell*, a workers' compensation claimant's counsel was unaware of a trial court order setting aside the decision of the Industrial Commission. *Id.* at 146. By the time he learned of the entry of the order, more than 30 days had passed. *Id.* At the suggestion of the trial court, counsel filed a petition for relief from judgment under section 2-1401. *Id.* at 146-47. The trial court withdrew the final order, and reentered it effective immediately, purportedly restarting the 30-day period for filing notice of appeal. *Id.* at 147. The supreme court held that the appeal was not timely because "section 2-1401 of the Code of Civil Procedure could not be employed as a means to salvage Mitchell's right to appeal," and "[a]ttorneys are not excused from following the filing requirements of Rule 303 merely because a judge has recommended a procedural route that lies beyond the judge's authority to travel." *Id.* at 150.

¶ 21 In this case, it is undisputed that Tolson timely filed her motion to reconsider. Although it was stricken for failure to provide courtesy copies, she was given leave to re-notice the motion.

Tolson did not attempt to circumvent the requirements of Rule 303; she was merely required by the circuit court to re-notice her already-filed, timely motion and provide courtesy copies. This case is in line with *Clark v. Han*, 272 Ill. App. 3d 981, 985 (1995), in which we held that the appeal was timely because the motion to reconsider had not been disposed of; it had simply been taken off the court call and re-noticed. Consequently, we have jurisdiction to hear this appeal.

¶ 22 Adequacy of the Briefs

¶ 23 U.S. Bank additionally argues that Tolson's briefs should be stricken because they are disorganized and lack citations to pertinent authority. A *pro se* litigant must comply with the rules of procedure required of attorneys, and a court will not apply a more lenient standard to *pro se* litigants. *People v. Adams*, 318 Ill. App. 3d 539, 542 (2001). "Nevertheless, we will not dismiss an appeal for briefing deficiencies 'if a reading of the entire brief makes it possible for the court to determine the questions or issues sought to be raised.'" *Id.* (quoting *People ex rel. Carter v. Touchette*, 5 Ill. 2d 303, 305 (1955)).We find that Tolson's briefs are sufficiently clear, and although they do not consistently cite to the record, they do cite appropriate legal authority. We have chosen not to strike the brief in this appeal.

¶ 24 Service of Process

¶ 25 Tolson's first contention is that the circuit court erred in denying her motion to quash service. Where, as here, no evidentiary hearing was held, the sufficiency of service of process is a question of law that we review *de novo*. *In re Dar. C.*, 2011 IL 111083, ¶ 60.

¶ 26 "The object of service is to notify a party of pending litigation and thus secure his presence." *Winning Moves, Inc. v. Hi! Baby, Inc.*, 238 Ill. App. 3d 834, 838 (1992). When service of process is made personally upon a defendant, "the return of summons is *prima facie* proof of proper service which can only be overcome by clear and convincing evidence, and the

court is required to indulge in every reasonable presumption in favor of the return." *Id.* The uncorroborated testimony of the person allegedly served is not considered clear and convincing evidence. *Id.* This has been the law in Illinois for well over a century. See *Davis v. Dresback*, 81 Ill. 393, 395 (1876) ("If the return of a sheriff can be impeached and a judgment and decree vacated upon the evidence alone of the defendant, who has been served with process, that stability which characterizes our judicial proceedings will be lost and a wide door will be opened for the temptation to commit purjury [sic] by the unscrupulous.").

¶ 27 However, a defendant's own physical appearance may sufficiently corroborate her testimony to meet her burden. *Winning Moves*, 238 Ill. App. 3d at 838-39. In *Winning Moves*, the process server testified that on separate occasions she personally served the defendant with a summons, a citation to discover assets, and a rule to show cause. *Id.* at 837. The process server identified the defendant in court as the woman whom she served on all three of those occasions. *Id.* The three return affidavits described the defendant as five-feet-seven-inches tall, weighing 145 pounds, approximately 31 years old, and with blonde hair. *Id.* On cross-examination, the process server estimated that the defendant was five-feet-five or five-feet-five-and-one-half-inches tall, 135 pounds, approximately 31 years old, with dirty blonde hair. *Id.* The defendant then testified that she was 27 years old, five-feet-three-inches tall, and 110 pounds. *Id.* The defendant further denied being served with any summons or complaint. *Id.* She testified that, on one date of service, she was entertaining guests at home and was not served with papers; and on another date, she was at work and could not have been served at home as alleged. *Id.* This court held that the evidence supported the trial court's invalidation of service of process. *Id.* at 838-39.

¶ 28 We find this case to be extremely similar, and so hold that Tolson's affidavit is sufficient to challenge the private process server's affidavit and entitle her to an evidentiary hearing.

Tolson states that she was never served with a complaint and summons in this case. Alone, this uncorroborated statement would not be enough to meet her burden. However, she also thoroughly addressed the description of the woman that was purportedly served. The process server described her as between 151 and 170 pounds.[1] Tolson swears in her affidavit that she was 175 pounds at that time, which is tolerably close to the process server's estimate. However, the process server also estimated that she was between 36 and 40 years old. Tolson states that she was 59 years old at the time of the alleged service, nearly two decades older than the upper limit of the process server's estimate. Even this is discrepancy is not dispositive. See *Pineschi v. Rock River Water Reclamation District*, 346 Ill. App. 3d 719, 724 (2004) (finding that a 12-year error is "not particularly remarkable" without more.)

¶ 29 However, Tolson also swears that at the time of the alleged service her hair was dyed red, inconsistent with the process server's description of brown hair. Crucially, the process server estimated the height of the woman served as between five-feet-eight-inches and five-feet-eleven-inches tall, but Tolson states that she is five-feet-one-inch tall. A discrepancy of between seven and ten inches is so extreme that Tolson is entitled to a hearing where the judge may observe her and compare his own impressions of her against the process server's description. See *Winning Moves*, 238 Ill. App. 3d at 837-38 (agreeing with trial court's observation that "[it's] pretty hard to misconstrue somebody [sic] by four inches.") The height difference here is about twice that in *Winning Moves.*

¶ 30 Additionally, although the process server states that he served Tolson at her residence, his affidavit only identifies the building without identifying the unit where the service was allegedly had. Even his amended affidavit does not clearly identify the proper unit number; Tolson's

[1] Throughout her briefs, defendant argues that the process server's weight estimate was 140 pounds. However, the affidavit in the record clearly reads "151 LBS - 170 LBS."

affidavit states that she lived in "Unit 215S" of a two building complex, but the process server's amended affidavit lists the address of service as "Unit 215."

¶ 31 In its brief, U.S. Bank cites *Winning Moves* but makes no effort to distinguish it from this case. Rather, it argues that Tolson's affidavit was insufficient to warrant an evidentiary hearing, relying on *MB Financial Bank, N.A. v. Ted & Paul, LLC*, 2013 IL App (1st) 122077. In that case, the process server described service upon a "female." *Id.* ¶ 4, 7. The defendant, a man, filed a petition for relief from the default judgment, which the trial court denied. *Id.* ¶ 10. This court affirmed the trial court, because the defendant's petition was supported only by "his uncorroborated, incredibly brief affidavit stating, conclusorily, that he was not served in the *** case and he is male. His evidence consisted of nothing else but his flat denial that plaintiff *** served him." *Id.* ¶ 25.

¶ 32 In this case, however, Tolson's affidavit sequentially points out all of the differences between her and the person described in the process server's affidavit. Additionally, rather than a flat denial that she was served, Tolson's motion set forth a plausible explanation that the process server simply served the wrong tenant of a large housing complex, a theory supported by the fact that the process server did not identify at which of the hundreds of units he served Tolson.

¶ 33 In our opinion, the dramatic difference between Tolson and the description of the person served, together with the process server's failure to identify at which unit he served her, calls into question whether process was served upon the proper person. As we have pointed out, a defendant's uncorroborated testimony is not sufficient to impeach a return of service because of the risk of perjury, and for the sake of stability in judicial proceedings. See *Davis v. Dresback*, 81 Ill. 393, 395 (1876); *Whitworth v. Morgan*, 46 Ill. App. 3d 292, 296 (1977) ("The return has the sanction of an official oath and to allow it to be set aside upon the sworn denial of the

defendant would destroy the stability which characterizes judicial proceedings and open wide the door for temptation to perjury.") However, a defendant's testimony about her own physical appearance, which can be corroborated by the trial court's own observations of her, is not the sort of testimony that presents a significant risk of perjury.

¶ 34 Accordingly, we find that the circuit court erred in denying Tolson's motion to quash without conducting an evidentiary hearing. See *Sullivan v. Bach*, 100 Ill. App. 3d 1135, 1142 (1981) ("If the defendant in this case can establish the facts set forth in his motion to vacate the judgment, it is clear that the court did not have personal jurisdiction over him[.] *** We say here only that he should not have been denied the right to a hearing on the merits of his petition."). We vacate that ruling and remand for an evidentiary hearing. If Tolson can establish the facts set out in her motion to quash by clear and convincing evidence, then it will be clear that the circuit court did not have personal jurisdiction over her when it entered the default judgment. "A judgment entered without jurisdiction over the parties is void *ab initio* and lacks legal effect." *Deutsche Bank National Trust Co. v. Brewer*, 2012 IL App (1st) 111213, ¶ 15.

¶ 35 Other Claims of Error

¶ 36 Where service of process is insufficient to convey personal jurisdiction, subsequent orders based on that service are void. *Bank of New York Mellon v. Karbowski*, 2014 IL App (1st) 130112, ¶ 26. However, if after an evidentiary hearing, the circuit court finds that Tolson was properly served, all of her remaining claims of error will need to be addressed. Therefore, we may resolve her additional contentions here with the goal of curtailing relitigation of the same issues and making them the law of the case. See, *e.g.*, *Catania v. Local 4250/5050 of Communications Workers of America*, 359 Ill. App. 3d 718, 725 (2005) (addressing potentially moot "issues that are likely to arise again on remand.").

¶ 37 Tolson contends that the circuit court erred in not allowing her to file loan modification documents or conduct discovery on alleged loan modifications. She alleges that she was denied leave to file loan modification documents signed by her mother in 2013, as well as documents from 2016, after her mother's death. She also argues that U.S. Bank and its predecessors violated the requirements of federal programs that allow homeowners to seek mortgage modifications.

¶ 38 However, no loan modification documents appear in the record. In its December 4, 2017 order, the circuit court observed that "Defendant does not even make an effort to explain the possible relevance of 2013 modifications to a 2017 foreclosure sale." The same is true on appeal; Tolson makes no argument as to what prejudice she suffered from the circuit court's alleged error. She does not even address the obvious question of how she could have taken advantage of federal mortgage modification programs. After all, Tolson was not the mortgagor, her mother was. In fact, the very transfer of the property from the original mortgagor to Tolson was almost certainly itself a violation of the mortgage. Even if the circuit court did err in not allowing her to file the loan modification documents, the error was harmless. See, e.g., *A.L. Dougherty Real Estate Management. Co., LLC v. Su Chin Tsai*, 2017 IL App (1st) 161949, ¶ 39 (holding error harmless where appellant made no argument that prejudice resulted from allowing evidence or that the evidence in any way affected the outcome of the case).

¶ 39 Tolson next argues that the circuit court erred in denying her motion to reconsider the order approving the sale. She also argues that the court abused its discretion by not vacating the default judgment. The parties agree that we review the denial of motions to vacate for an abuse of discretion. *Wells Fargo Bank, N.A. v. Simpson*, 2015 IL App (1st) 142925, ¶ 32. Additionally, when considering a motion to vacate a default judgment, "the overriding consideration is simply whether or not substantial justice is being done between the litigants and whether it is

reasonable." *In re Haley D.*, 2011 IL 110886, ¶ 57. We find that the circuit court did not abuse its discretion.

¶ 40 Our supreme court has explained that "[a]fter a motion to confirm the sale has been filed, it is not sufficient *** to merely raise a meritorious defense to the complaint." *Wells Fargo Bank, N.A. v. McCluskey*, 2013 IL 115469, ¶ 26. Rather, at that late juncture, a borrower's burden is governed solely by the criteria set forth in section 15–1508(b)(iv) of the Mortgage Foreclosure Law (735 ILCS 5/15–1508(b)(iv) (West 2016)), which requires that the borrower show that "justice was not otherwise done because either the lender, through fraud or misrepresentation, prevented the borrower from raising his meritorious defenses to the complaint at an earlier time in the proceedings, or the borrower has equitable defenses that reveal he was otherwise prevented from protecting his property interests." *McCluskey*, 2013 IL 115469 at ¶ 26.

¶ 41 The circuit court entered default judgment in this case on March 31, 2017. U.S. Bank filed a motion to approve the report of sale and distribution on July 11, 2017; the court granted that motion on August 25, 2017. After the court denied her April 7, 2017 motion to quash service, Tolson did not move to vacate the default judgment until September 25, 2017, as part of her motion to reconsider. The record also contains no objections to the motion for default judgment or the motion to approve the sale. As a result, there appear to be no issues that the circuit court could have "reconsidered" aside from her repeated arguments on service of process. In light of this apparent forfeiture and her unexplained tardiness in attacking the original foreclosure judgment, we cannot say that substantial justice between the parties would have been furthered by vacating that judgment. Accordingly, the court did not abuse its discretion by denying the motion to reconsider or vacate.

¶ 42 Tolson next contends that the circuit court erred in denying her an opportunity to contest the motion to approve the sale. She also argues that she was entitled to an evidentiary hearing on that motion. These arguments are not supported by the record or the law.

¶ 43 The burden of providing a sufficient record on appeal rests with the appellant (here, Tolson). *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156 (2005); *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001); *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). In the absence of such a record, we must presume the trial court acted in conformity with the law and with a sufficient factual basis for its findings. *Id.* Furthermore, any doubts arising from an incomplete record will be resolved against the appellant. *Id.*

¶ 44 The motion to confirm sale was presented on August 18, 2017. On that date, Tolson was present in court, but her counsel was not. The court entered and continued the motion for one week to give her counsel an opportunity to appear. On August 25, 2017, the court entered an order approving the sale. Because the order was entered without briefing or any mention of objections raised by Tolson, we must presume that she and her counsel failed to appear on the rescheduled August 25 date. Even if she did appear and raise objections on August 25, the record does not reflect that fact and is therefore insufficient to establish reversible error. *Foutch*, 99 Ill. 2d 389, 391-92 (1984).

¶ 45 Additionally, Tolson's claim that she was entitled to an evidentiary hearing on the motion to approve the sale is simply incorrect. The Illinois Mortgage Foreclosure Law does not "require an extended evidentiary hearing after each sheriff's sale." *Deutsche Bank National v. Burtley*, 371 Ill. App. 3d 1, 6 (2006). Once a motion to confirm a judicial sale has been filed, the party opposing the sale bears the burden of proving that grounds exist sufficient for the circuit court not to enter an order approving the sale. *Sewickley, LLC v. Chicago Title Land Trust Co.*, 2012

IL App (1st) 112977, ¶ 35. Courts may disapprove a sale on the basis of unconscionability only "where the amount bid is so grossly inadequate that it shocks the conscience of a court of equity." *Resolution Trust Corp. v. Holtzman*, 248 Ill. App. 3d 105, 113 (1993). Evidence of the inadequacy of the price is required to be "a current appraisal or other current indicia of value which is so measurably different than the sale price as to be unconscionable." *Deutsche Bank National v. Burtley*, 371 Ill. App. 3d 1, 8-9 (2006). The only evidence Tolson ever submitted was on the question of service of process; she never submitted any evidence related to the approval of the sale or the value of the property. Consequently, the circuit court did not abuse its discretion in approving the sale without an evidentiary hearing.

¶ 46 Lastly, Tolson argues that the circuit court erred in striking her answer and denying her request to file an amended answer. The record contains no answer, no motion to strike an answer, no order striking an answer, and no motion to amend an answer. As noted above, the burden of providing a sufficient record on appeal rests with the appellant. *Foutch*, 99 Ill. 2d at 391-92. In the absence of such a record, we must presume the trial court acted in conformity with the law and with a sufficient factual basis for its findings. *Id.* Because the record contains no reference to the circuit court striking an answer or denying a motion to amend an answer, we cannot determine that there was any reversible error on this issue.

¶ 47 CONCLUSION

¶ 48 For the reasons stated above, we vacate the decision of the circuit court and remand for an evidentiary hearing on Tolson's motion to quash service of process. We express no opinion on the outcome of such a hearing. If the court denies the motion to quash, then all orders shall stand and this order will prevent Tolson from relitigating issues that she raised or could have raised in this appeal, as well as any new defenses to either the foreclosure or the confirmation of sale. If

the court grants the motion to quash, then it must vacate all orders entered after the alleged service of process.

¶ 49 Vacated and remanded for further proceedings consistent with this order.