

WHOLESALE OIL COMPANY *v.* T. B. & L. FARM
SUPPLY, INC.

CA 81-218

628 S.W. 2d 22

Court of Appeals of Arkansas
Opinion delivered February 17, 1982

GARNISHMENT — DEFECTIVE WRIT OF GARNISHMENT — FAILURE TO GIVE GARNISHEE PROPER NOTICE IN WRIT — REFUSAL OF COURT TO ENTER JUDGMENT AGAINST GARNISHEE. — Where a writ of garnishment merely advises the garnishee to appear and answer questions propounded and to be propounded but does not contain language sufficient to give notice that the failure to answer can result in a judgment against the garnishee, the trial court's refusal to enter judgment against the garnishee on its failure to answer will be affirmed.

Appeal from White Circuit Court, *Cecil Tedder*, Judge; affirmed.

W. B. Guthrie, Jr., Ltd., by: *Robert M. Abney*, for appellant.

Joe N. Peacock, for appellee.

MELVIN MAYFIELD, Chief Judge. Seven years ago in *DeSoto, Inc. v. Crow*, 257 Ark. 882, 520 S.W. 2d 307 (1975), the Arkansas Supreme Court set aside a judgment entered against a garnishee on its failure to answer a writ of garnishment. The court said the writ merely advised the garnishee to appear and answer questions propounded and to be propounded but did not contain language sufficient to give notice that the failure to answer could result in a judgment against the garnishee.

Today we are asked to require a trial court to enter judgment against a garnishee who was served with a writ containing the same defect which existed in the writ in the *DeSoto* case.

The request must be denied. Even if we were inclined to grant it, the Supreme Court — only a few days ago — clearly

indicated that it would not retreat from its holding in *DeSoto*. See *Tucker v. Johnson*, 275 Ark. 61, 628 S.W. 2d 281 (1982).

The order of the trial court is affirmed.
