

TWIN FALLS, THURSDAY, NOVEMBER 5, 2009 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

JAMES R. MEYERS and ANN T. MEYERS,)	
husband and wife,)	
)	Docket No. 35534
Plaintiffs/Respondents,)	
v.)	
)	
GEORGE HANSEN,)	
)	
Defendants/Appellant.)	

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, Bonneville County. Hon. Darren B. Simpson, District Judge.

Runft & Steel, LLP, Boise, for appellant.

Beard St. Clair Gaffney, PA, Idaho Falls, for respondent.

The respondents, Ann T. Meyers and her late husband, James Meyers, lost nearly \$300,000 in an investment scheme orchestrated by the appellant, George Hansen. George Hansen is a former Idaho congressman.

On February 22, 1993, Meyers filed an action against Hansen as well as Jack and Kathleen Lott, co-investors who had allegedly violated securities regulations by inducing Meyers into making the investment. Hansen was personally served on August 23, 1993, while undergoing a federal prison sentence for securities fraud in Petersburg, Virginia, but did not answer or otherwise enter an appearance. Hansen claims he does not remember receiving the personal service. The following month, the district court entered an Order of Entry of Default against Hansen, which was served on September 21, 1993.

Hansen was released from prison in 1995. After a trial in September of 2000, the jury found in favor of the Lotts, leaving Hansen as the sole defendant. A year later, Meyers filed an Application for Default Judgment against Hansen that did not contain his certified address and for which no notice was provided. Default judgment was granted on September 25, 2001, without service, and an order renewing the default judgment was granted on May 16, 2006, again without service. Meyers then initiated collection proceedings. Collection documents were personally served upon Hansen's wife at their home in Pocatello, Idaho, on September 12, 2006. Hansen resisted the collection proceedings by immediately filing two *pro se* requests to be excused from collection proceedings on September 20, 2006, and October 31, 2006.

Despite receiving service of the Order for Renewed Default Judgment in 2006 and despite filing *pro se* motions to resist the collection proceedings in late 2006, Hansen claims that he did not know of the default judgment until April of 2007. Hansen obtained counsel in early 2007 and filed a Motion for Relief from Default Judgment, which was denied. He appeals the denial of this motion, claiming that the default judgment is void on the grounds that it violates his constitutional rights to procedural due process and that it violates his statutory rights. He also contends that it would be inequitable for the Default Judgment to have prospective effect. Last, he argues that the default judgment should be vacated because the district court's Judgment on Jury Verdict dismissed Meyers's "complaint" with prejudice, implicitly dismissing her claims against Hansen as well. Meyers responds that Hansen's due process rights were not violated because he had been initially served with notice of the litigation and was not entitled to additional notice before the default judgment was entered against him because he never appeared in the case. Meyers further responds that it would be equitable to enforce the judgment and that Hansen failed to address the Judgment on Jury Verdict in the district court, thereby waiving the issue.

TWIN FALLS, THURSDAY, NOVEMBER 5, 2009 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiffs-Respondent,)	
)	
v.)	
)	Docket No. 36238
MICAH NATHANIEL WEGNER,)	
)	
Defendants-Appellant.)	
_____)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Jerome County. Honorable John K. Butler, District Judge.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General, for respondent.

In March of 2001, the State filed a juvenile petition charging Micah Wegner, who was born on August 21, 1983, with two counts of lewd conduct with a minor under the age of sixteen. Count I alleged lewd conduct with Wegner’s sister committed between February 18, 1995 and April 15, 1998, while Count II alleged lewd conduct with Wegner’s stepbrother committed between July 19, 1996 and May 3, 1998.

The State then filed a motion for waiver of juvenile jurisdiction, and in January of 2002, Wegner was charged as an adult. Pursuant to a nonbinding plea agreement, Wegner pleaded guilty to one count of approximately thirteen separate acts of sexual and anal intercourse and manual/genital contact with the two victims between February 18, 1995 and May 3, 1998, while he was between the ages of eleven years, six months, and fourteen years, eight months.

Two and a half years after Wegner’s judgment became final, Wegner filed a pro se “Motion to Withdraw Plea to Correct Manifest Injustice, I.C.R. 33(c),” arguing that he could not have been found guilty because he was under the age of fourteen at the time of the alleged offense and Idaho Code section 20-509 does not list lewd conduct as one of the offenses for which minor children can be tried as adults. The district court denied Wegner’s motion to withdraw his guilty plea, holding that it lacked jurisdiction because Wegner had not filed the motion until more than two years after the remittitur was issued on his direct appeal. Wegner appealed, and in January of 2009, the Idaho Court of Appeals concluded that while the district court erred in ruling that it did not have

jurisdiction to adjudicate Wegner's Rule 33 motion, it was not reversible error because there was no basis for the withdrawal of the guilty plea. Accordingly, the Court of Appeals affirmed the district court's denial of Wegner's Rule 33 motion as well as the district court's denial of his motion for appointment of counsel. Wegner now appeals to this Court arguing (1) that the district court had jurisdiction to consider Wegner's Rule 33 motion, and (2) that the district court erred in denying Wegner's Rule 33 motion.

TWIN FALLS, THURSDAY, NOVEMBER 5, 2009 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

URBAN RENEWAL AGENCY OF THE)	
CITY OF REXBURG,)	
)	
Petitioner-Respondent,)	
)	Docket No. 35435
v.)	
)	
KENNETH W. HART, an interested party,)	
)	
Appellant.)	

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, Madison County. Hon. Brent J. Moss, District Judge.

Runft & Steele Law Offices, PLLC, Boise, for appellant.

Elam & Burke, P.A., Boise, for respondent.

This is an appeal from a district court's decision confirming the validity of revenue allocation bonds. The Urban Renewal Agency of the City of Rexburg (the Agency) petitioned the district court for judicial confirmation of the validity of bonds the Agency wishes to issue to Zions Bank Public Finance (Zions) for the purpose of financing construction of the Riverside Park Urban Renewal Project. Kenneth W. Hart, a citizen of Rexburg, Idaho, challenged the petition on grounds that issuance of the bonds would violate the prohibitions against municipal indebtedness and lending of credit found in the Idaho Constitution. The district court rejected Hart's arguments and confirmed the validity of the bonds. Hart timely appeals.

Pursuant to I.C. § 7-1304, *et seq.*, the Agency filed a petition for judicial confirmation of the validity of revenue allocation bonds it seeks to issue to Zions in a principal amount not to exceed \$6,300,000.00. The Agency intends to issue the bonds in order to finance the Riverside Park Urban Renewal Project, which calls for the acquisition of land and construction of a public outdoor swimming facility, including dressing facilities, an access road, parking facilities, and related furnishings and improvements; construction and furnishing of a building for sporting and community events; and installation of outdoor fields for soccer, football, baseball, and other public recreation purposes, and related improvements. The Agency's petition also sought judicial confirmation of the validity of the bond purchase agreement between the Agency and Zions as well as a declaration that the Rexburg City Council's ordinance approving the Agency's plan to carryout the project through issuing revenue allocation bonds is valid.

The Agency asked the district court to consider its petition in light of 11 issues, including whether the proposed revenue allocation financing scheme, designed pursuant to the Local Economic Development Act (the Act), I.C. § 50-2901 *et seq.*, violates the prohibitions on

municipalities lending credit, found in Article VIII, § 4 and Article XII, § 4 of the Idaho Constitution, and whether it further violates Article VIII, § 3, which prohibits a municipality from incurring an indebtedness or liability exceeding income and revenue for a specific year without the assent of qualified electors. Of these issues, Hart's response raised only the questions of whether the Act violates Article VIII, §§ 3 and 4; Hart did not raise any issues under Article XII. The district court rejected Hart's arguments and granted the Agency's petition, thereby confirming the validity of the bonds, the bond purchase agreement, and the Rexburg City Council's ordinance approving the bonds. Hart timely appeals. Nine urban renewal agencies (collectively referred to as the Agencies) have filed a brief as *amici curiae* urging this Court to affirm.