

THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE ARIZONA TAX COURT

TX 2022-000320

12/15/2023

HONORABLE SARA J. AGNE

CLERK OF THE COURT
C. Lockhart
Deputy

STATE OF ARIZONA DEPARTMENT OF
REVENUE

WENDY M GILLOTT

v.

GLENN SHAND

JAMES E BROWN

JUDGE AGNE

MINUTE ENTRY

East Court Building – Courtroom 912

10:45 a.m. This is the time set for a Status Conference on the Court’s own motion regarding a docket error regarding the Complaint, filed October 14, 2022. Plaintiff, State of Arizona Department of Revenue, is represented by counsel, Wendy M. Gillott. Defendant, Glen Shand, who is not present, is represented by counsel, James E. Brown. All appearances are virtual.

A record of the proceedings is made digitally in lieu of a court reporter.

THE COURT ADVISES the Parties that the docket error that was discovered, has now been corrected with the Clerk’s Office.

10:47 a.m. Matter concludes.

LATER:

The Court held oral argument on November 3, 2023, on Plaintiff’s Motion for Summary Judgment as to Glenn Shand, filed July 17, 2023 (“Motion”), as well as subsequent filings related thereto. The Court has considered the filings and arguments of the Parties, the relevant

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authorities and applicable law, as well as the entire record of the case, and—considering all facts and reasonable inferences therefrom in the light most favorable to the non-movants—hereby finds as follows regarding the Motion.

Summary judgment is appropriate if “there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law.” Ariz. R. Civ. P. 56(a); *General Motors Corp. v. Maricopa Cty.*, 237 Ariz. 337, 339 ¶7 (App. 2015).

Plaintiff State of Arizona *ex rel.* Arizona Department of Revenue (“ADOR”) seeks summary judgment as to Defendant Glenn Shand based on Mr. Shand’s failure to pay his tax obligations in full owed to Plaintiff. (Mot., at 1–2.)

Mr. Shand filed tax returns for tax years 2011 and 2012 but did not pay the taxes owed as reported. (Plaintiff’s Statement of Material Facts, filed July 17, 2023 (“PSOF”), at ¶1, *undisputed*. Mr. Shand filed his 2011 tax return on October 15, 2012, and his 2012 tax return on August 26, 2013. (Mot., at 4; *see* PSOF, Exh. A at Attachment B.) Between 2013 and 2023, ADOR applied payments and offsets to the amounts owed. (PSOF ¶¶4–5, *undisputed*.) As of July 8, 2023, Mr. Shand owed \$13,691.19 in taxes, \$5,629.71 in penalties, and \$7,463.89 in pre-judgment interest. (PSOF ¶6, *undisputed*.) ADOR filed this action on October 14, 2022. (Mot., at 4; *see* Compl., filed October 14, 2022, docket updated with filed copy via filing on December 14, 2023.)

ADOR “may bring an action in the name of this state to recover the amount of any taxes, penalties, interest or other amounts owed by the taxpayer to the department that are due and unpaid.” A.R.S. § 42-1114(A). “The action shall not commence more than ten years after the amount of taxes determined to be due becomes final . . .” A.R.S. § 42-1114(C).

Mr. Shand does not deny that he owes the taxes for tax years 2011 and 2012. (Resp., filed August 21, 2023, at 1.) Mr. Shand contends that ADOR waited to collect on the taxes and should be precluded from collecting them based on laches. (Resp., at 2.)

“Laches will generally bar a claim when the delay is unreasonable and results in prejudice to the opposing party.” *Sotomayor v. Burns*, 199 Ariz. 81, 83 ¶6 (2000). **THE COURT FINDS that** Mr. Shand has failed to show that the delay by ADOR was unreasonable and resulted in prejudice.

Mr. Shand contends that he is prejudiced by ADOR’s unreasonable delay “[d]ue to his age and health and other prejudicial reasons.” (Resp., at 3.) Mr. Shand cites no authority supporting his contention that such reasons constitute prejudice for laches. Neither has Mr.

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Shand provided any evidence supporting the alleged prejudice. *See* Ariz. R. Civ. P. 56(e).
Therefore, good cause appearing,

IT IS ORDERED granting Plaintiff's Motion for Summary Judgment as to Glenn Shand.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 12-341, that not later than **twenty (20) calendar days** after the entry of this Order, Plaintiff may submit an application for and statement of costs. If an application or statement is submitted that Defendant Glenn Shand wishes to oppose, a response must be filed not later than **20 calendar days** after service. Plaintiff is not permitted to file a reply unless requested to do so by the Court.

IT IS FURTHER ORDERED that not later than **twenty (20) calendar days** after the entry of this Order, Plaintiff must also submit a proposed form of judgment. That form of judgment may incorporate by reference from this minute entry ruling. The time for objections to such form is governed by Ariz. R. Civ. P. 58.