

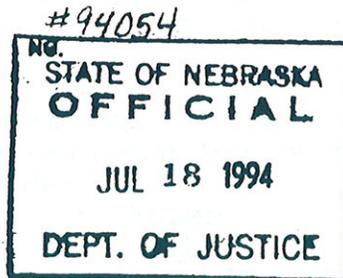


STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NEBRASKA 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
1235 K ST. FAX (402) 471-4725

DON STENBERG
ATTORNEY GENERAL

L. STEVEN GRASZ
SAM GRIMMINGER
DEPUTY ATTORNEYS GENERAL



DATE: July 15, 1994

SUBJECT: When is a Judgement Final in Regard to the Sixty (60) Days Provided to Satisfy any Judgement as Stated in Neb. Rev. Stat. § 60-516 (1992 Cum.Supp.).

REQUESTED BY: Alvin Abramson, Director Nebraska Department of Motor Vehicles

WRITTEN BY: Don Stenberg, Attorney General
Paul N. Potadle, Assistant Attorney General

ANSWER: Any judgment becomes final as stated in Neb. Rev. Stat. § 60-516 (1992 Cum.Supp.) sixty (60) days after either the time within which an appeal might have been perfected has expired or by final affirmation of an appeal.

DISCUSSION

Neb. Rev. Stat. § 60-516 (1992 Cum.Supp.) provides in pertinent part that:

Whenever any person fails within sixty days to satisfy any judgment, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any judgment is rendered within this state to transmit to the department, immediately after the expiration of sixty days, a copy of such judgment....

Neb. Rev. Stat. § 60-501(2) (1988) defines judgment to mean "any judgment which shall have become final by the expiration of

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Melanie J. Whittamore-Mantzios
Linda L. Willard

Alvin Abramson
July 15, 1994
Page -2-

the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States. . . ."

A number of rules of construction may be applicable to the interpretation when the sixty (60) day time period is to commence. However, the primary rule that is applicable here provides it is the obligation of the court to determine and give effect to the purpose and intention of the legislature. *Adkisson v. City of Columbus*, 214 Neb. 129, 134, 333 N.W.2d 661, 664 (1983). This intent is ascertained from the language of the entire statute considered in its "plain, ordinary, and popular sense" and "in light of the mischief to be remedied." In *Adkisson*, the court stated that, "a statute should be construed so that an ordinary person reading it would get from it the usual accepted meaning. Rules of interpretation are resorted to for the purpose of resolving an ambiguity, not creating it." *Id.* at 133, N.W.2d at 664. Likewise, in *Sorenson v. Meyer*, 220 Neb. 457, 462-63, 370 N.W.2d 173, 177 (1985), the Court stated, ". . . where the words of a statute are plain, direct, and unambiguous, no interpretation is necessary to ascertain their meaning. Further, it is not within the province of the court to read a meaning into a statute that is not warranted by the legislative language."

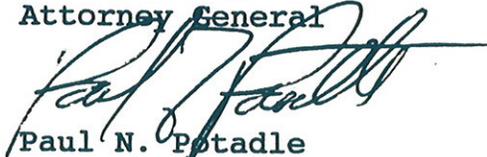
In the instant case, a plain reading of the applicable statutes, yields the inevitable conclusion that the clerk of the court is required to transmit a copy of the judgment immediately following the sixty (60) days after either: (1) the expiration of the thirty (30) day time limit for filing an appeal; or (2) the final disposition of a timely filed appeal. If the time for appeal is thirty (30) days, under the definition of judgment provided in § 60-501(2), then the sixty (60) days would start from the day the judgment becomes final, that is, the day the appeal time had run. For example, if a judgment is entered on July 1st, assuming a thirty (30) day time appeal, the court would wait thirty (30) days for the judgment to become final and then wait an additional sixty (60) days after that date or September 30th before sending the

Alvin Abramson
July 15, 1994
Page -3-

Department of Motor Vehicles a copy of the judgment as provided in
§ 60-516.

Sincerely yours,

DON STENBERG
Attorney General



Paul N. Potadle
Assistant Attorney General

Approved By:


Attorney General

46-1365-3