

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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EMMANUEL ROBERT EJEH, *Plaintiff/Appellee*,

*v.*

ANTHONY ALI, *Defendant/Appellant*.

No. 1 CA-CV 24-0295

FILED 07-10-2025

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Appeal from the Superior Court in Maricopa County

No. CV2023-095973

The Honorable Brian J. Palmer, Judge *Pro Tempore*

**AFFIRMED**

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COUNSEL

Denton Peterson Dunn, PLLC, Mesa  
By Brad A. Denton, Hannah K. Durrett  
*Counsel for Plaintiff/Appellee*

Anthony Ali, Buckeye  
*Defendant/Appellant*

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**OPINION**

Presiding Judge Kent E. Cattani delivered the Opinion of the Court, in which Judge Samuel A. Thumma and Judge Angela K. Paton joined.

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CATTANI, Judge:

¶1 Anthony Ali appeals the superior court’s order granting Emmanuel Robert Ejeh’s Petition for Registration of Foreign Country Judgment in Arizona. For reasons that follow, we affirm, holding that: (1) a final judgment obtained in a Nigerian court is recognizable under Arizona’s version of the Uniform Foreign-Country Money Judgments Recognition Act, A.R.S. §§ 12-3251 to -3254 (the “Act”), because Nigeria has a reciprocal law related to foreign-country money judgments that is similar to the Act; and (2) Nigeria’s constitution and rules of civil procedure comport with our notions of due process and personal jurisdiction.

**FACTS AND PROCEDURAL BACKGROUND**

**I. Nigerian Proceedings.**

¶2 In 2008, Ejeh loaned his cousin Ali \$100,000. Ejeh lives in Nigeria; Ali lives in Arizona. Ali had visited Nigeria in 2007 to help Ejeh set up a business, and Ejeh subsequently loaned Ali the money at issue. In 2018, Ali sent Ejeh \$5,833.33 as partial repayment of the loan. In June 2021, Ejeh sued Ali in Nigeria for the remaining \$94,166.67 and for solicitors’ fees in the High Court of the Federal Capital Territory in the Abuja Judicial Division Holden at Jabi. He initiated the suit under Order 35 of the 2018 Civil Procedure Rules for the High Court of the Federal Capital Territory, Abuja (“FCTA Rules of Civil Procedure,” or “FCTA R. Civ. P.”).

¶3 Under Order 35—governing procedures for “The Undefended List”—claimants seeking to recover a debt or liquidated money demand may submit an affidavit stating the grounds on which the claim is based and that they believe there is no defense to it. FCTA R. Civ. P., Order 35.1(1). If the defendant provides notice of an intent to defend the suit, “together with an affidavit disclosing a defence on the merit[s],” the court may grant the defendant leave to defend the suit and the case will be placed on something called “the ordinary Cause List.” FCTA R. Civ. P., Order 35.3. If the defendant does not provide notice together with the required affidavit, the case is heard as an undefended suit. FCTA R. Civ. P., Order 35.4.

¶4 In support of his suit, Ejeh provided copies of a United Bank of Africa transaction statement, emails from Ejeh to Ali about loan repayment and the suit, an affidavit, and a certificate of compliance. The Nigerian court granted leave for Ejeh to serve Ali by email and set a hearing for more than a month later. *See* FCTA R. Civ. P., Order 7.11(2)(e)(i)

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(permitting the court to order service by email if it appears “for any reason prompt service cannot be conveniently effected”). At the hearing, Ejeh informed the Nigerian court that Ali had been served with the originating processes and hearing notice. Ali did not file a notice of intention to defend or an affidavit, so the case was heard as an undefended suit. *See* FCTA R. Civ. P., Order 35.4.

¶5 The sole issue before the Nigerian court was thus whether Ejeh had proven his case and shown he was entitled to relief. Citing its independent duty to evaluate the evidence and be satisfied that it was credible and sufficient to sustain the claim, the court found that Ejeh had proven his case and ordered Ali to pay Ejeh \$94,166.67. The court denied Ejeh’s request for solicitors’ fees, finding he had not proved the amount. The court signed and certified the judgment as final in March 2022.

## **II. Arizona Proceedings.**

¶6 In December 2023, Ejeh filed the Petition for Registration of Foreign Country Judgment in Maricopa County Superior Court. Pursuant to the Act, A.R.S. §§ 12-3251 to -3254, Ejeh alleged that the Nigerian judgment (1) was final, conclusive, and enforceable; (2) was not for taxes, a fine or penalty, or rendered in connection with domestic relations; and (3) originated from a country (Nigeria) that has adopted a reciprocal law similar to the Act. A.R.S. § 12-3252. The Petition attached an affidavit of a Nigerian barrister and solicitor to support these allegations.

¶7 Ejeh’s process server left the summons and Petition with a woman who lived with Ali at his home in Buckeye. Acknowledging receipt of those documents, Ali moved for a 30-day extension to file his response, which the court granted. In his response, Ali avowed that in 2007, when visiting Nigeria to help Ejeh set up his business, he allowed Ejeh to use his name to purchase property and procure contracts. Ali further stated that he needed financial assistance when he returned to Arizona, and Ejeh gave him \$100,000 as a gift to thank him for helping set up the business and acquire properties in Nigeria. Ali also stated that he was never served in the Nigerian case, that he had not been to Nigeria since 2009, and that he and Ejeh never executed a contract or repayment plan for a loan because the money was a gift. Finally, he stated that because they were cousins, he had started refunding Ejeh part of the gift in 2018, and that even if deemed a loan, he should not be required to re-pay more than \$24,000.

¶8 In his reply, Ejeh argued that Ali failed to carry his burden to prove that an exception or ground for nonrecognition of the judgment

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applied. *See* A.R.S. § 12-3253(B), (C). He also argued the Nigerian court had jurisdiction over Ali and that Ali failed to explain the significance of the facts he asserted in his response. Ejeh noted that the Nigerian court had granted Ejeh's request to serve Ali by email, and he produced the certificate of service and a photograph of the email serving him, which was the same email address Ali provided in his response to the Petition.

¶9 The superior court granted Ejeh's Petition and recognized the Nigerian judgment as an Arizona judgment. Ali timely appealed, and we have jurisdiction under A.R.S. § 12-2101(A)(1).

**DISCUSSION**

¶10 Ali challenges the superior court's decision recognizing the Nigerian judgment, asserting that the Act does not apply to the judgment at issue and that, even if the Act applies, the superior court should have declined to recognize the judgment. He further asserts that the superior court deprived him of due process by resolving the case without holding an evidentiary hearing. We address each contention in turn.

**I. Recognition of the Nigerian Judgment.**

**A. Applicability of the Act.**

¶11 The Act applies to certain types of foreign-country money judgments that are final and enforceable under the rendering country's law, provided the rendering country has adopted a reciprocal law similar to the Act. A.R.S. § 12-3252(A) (final foreign-country money judgment), (B)(1) (restriction on types of money judgments), (B)(2) (requirement of reciprocal law). The party seeking recognition must prove the foreign-country judgment falls within the Act. A.R.S. § 12-3252(C).

¶12 Ali does not meaningfully dispute that the Nigerian judgment is a qualifying type of final money judgment rendered by a foreign country. Rather, Ali argues that Nigeria has no similar reciprocal law, so the Act cannot apply to the Nigerian judgment. *See* A.R.S. § 12-3252(B)(2). But Nigeria's Foreign Judgments (Reciprocal Enforcement) Act qualifies. *Compare* Foreign Judgments (Reciprocal Enforcement) Act (2004) Cap. (F35), § 6(1) (Nigeria) (establishing Nigerian reciprocity for final and conclusive money judgments where the rendering court had personal jurisdiction over the judgment debtor, the debtor was on notice of the suit, and the judgment was not contrary to Nigerian public policy or obtained by fraud), *with* A.R.S. § 12-3252 (stating the Act applies to final, conclusive and enforceable foreign-country money judgments and excluding tax

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judgments, fines, penalties, and judgments rendered in connection with domestic relations from the Act's scope), *and* A.R.S. § 12-3253(B)–(C) (restricting recognition under the Act where, e.g., the rendering court lacked personal jurisdiction, the judgment debtor lacked notice of the suit, or the judgment is contrary to the public policy of Arizona or the United States). Ali's claim of error thus fails, and the superior court did not err by concluding that the Nigerian judgment was eligible for recognition.

**B. Exceptions to Recognition.**

¶13 When the Act applies to a foreign-country judgment, an Arizona court must recognize the judgment unless it is subject to a statutory exception. A.R.S. § 12-3253(A). The Act includes both mandatory and discretionary exceptions. A.R.S. § 12-3253(B), (C). The party objecting to recognition has the burden to prove any exception requiring or permitting nonrecognition. A.R.S. § 12-3253(D).

**1. Mandatory Exceptions.**

¶14 When any of three enumerated mandatory exceptions applies, the Arizona court “may not” recognize the foreign-country judgment. A.R.S. § 12-3253(B)(1) (systemic lack of due process), (2) (lack of personal jurisdiction), (3) (lack of subject matter jurisdiction). Ali argues that two of these—personal jurisdiction and due process—are implicated here and should have precluded recognition of the Nigerian judgment. Because the superior court's determination on the question of a foreign country's law is “treated as a ruling on a question of law,” *Ariz. R. Civ. P. 44.1*, we review the issue *de novo* and may conduct our “own independent research and analysis,” *State of Netherlands v. MD Helicopters Inc.*, 248 Ariz. 533, 538, ¶ 12 (App.), *aff'd* 250 Ariz. 235 (2020).

¶15 First, Ali asserts that he was not properly served in the Nigerian case, leaving him without notice of the suit and the Nigerian court without personal jurisdiction over him. The purpose of service of process is to give the other party actual notice of the proceeding. *Marks v. LaBerge*, 146 Ariz. 12, 15 (App. 1985). “Proper service of process is essential for the court to have jurisdiction over a defendant.” *Duckstein v. Wolf*, 230 Ariz. 227, 233, ¶ 18 (App. 2012). In Arizona, if a party shows that traditional methods of service are impracticable, the court may order that service be accomplished through an alternative means, which may include email. *Ariz. R. Civ. P. 4.1(k)(1)*; *see Ruffino v. Lokowsky*, 245 Ariz. 165, 170, ¶ 16 (App. 2018) (holding that alternative service by email was more likely to give the defendant notice of the suit than publication); *see also State ex rel.*

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*Dep't of Econ. Sec. v. Pennel*, 257 Ariz. 558, 560, ¶ 11 (App. 2024) (“Due process requires notice ‘reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’”) (citation omitted).

¶16 In a similar vein, Order 8 of the FCTA Rules of Civil Procedure provides for service of foreign process outside Nigeria in contract actions. FCTA R. Civ. P., Order 8.1(e), 8.3(d). The Nigerian court granted leave for Ejeh to serve Ali by email, presumably finding it an appropriate way to notify Ali of the suit due to his long-time domicile in Arizona. *See* FCTA R. Civ. P., Order 7.11(e)(i). A claimant may proceed upon proof of service if the defendant fails to appear, FCTA R. Civ. P., Order 10.2, and an affidavit with a printout of an email notifier constitutes prima facie proof of service by email, FCTA R. Civ. P., Order 7.13. The proof of service Ejeh provided to the Nigerian court shows Ali was served at the same email address listed on Ali’s filings in the Arizona court.

¶17 The FCTA Rules of Civil Procedure resemble the Arizona Rules of Civil Procedure governing service of process and jurisdiction. *Compare* FCTA R. Civ. P., Orders 7, 8, 10, 35, *with* Ariz. R. Civ. P. 4.1. And the record, although sparse, reflects that Ali was served in compliance with the FCTA Rules of Civil Procedure. Accordingly, Ali has not established a service defect triggering the due process or personal jurisdiction exceptions under A.R.S. § 12-3253(B)(1) and (2).

¶18 Second, Ali asserts that the Nigerian judicial system lacks procedures compatible with due process, as evidenced by the fact that the judgment was entered without his presence or participation. But Chapter IV, Section 36 of the Constitution of Nigeria guarantees the right to a fair hearing within a reasonable time before an impartial and independent tribunal. Constitution of Nigeria (2023), § 36(1). It guarantees the right to make representations to a tribunal before a decision is rendered. *Id.* § 36(2)(a). Here, however, because Ali did not deliver a notice of defense or affidavit responding to Ejeh’s suit on the Undefended List, the Nigerian court was required to hear the suit as undefended. FCTA R. Civ. P., Order 35.4 (noting, in that circumstance, “the suit shall be heard as an undefended suit and judgment given accordingly”). The Nigerian court evaluated Ejeh’s evidence, found it credible and sufficient to sustain the claim.

¶19 The default rules for both Arizona and Nigerian courts provide procedures through which a claimant may proceed with a case after providing proof of service and notice to the other party. Ariz. R. Civ. P. 55(a); FCTA R. Civ. P., Orders 10, 35. And in Arizona as in Nigeria, a

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court may enter default judgment on a plaintiff's claim of a sum certain – without a hearing – against a defendant who has been defaulted for failure to plead or defend. Ariz. R. Civ. P. 55(b)(1)(A); FCTA R. Civ. P., Order 35.1(1). The procedures employed by the Nigerian court in rendering judgment against Ali were thus compatible with Arizona's concepts of personal jurisdiction and due process. Accordingly, Ali has not established grounds for a mandatory exception to recognition under A.R.S. § 12-3253(B).

**2. Discretionary Exceptions.**

¶20 The Act gives the Arizona court discretion to decline to recognize a foreign-country judgment in eight enumerated circumstances. A.R.S. § 12-3253(C)(1)–(8). Ali contends that several of the specific exceptions apply.

¶21 First, he asserts that the Nigerian judgment was based on fraudulent evidence, which conceivably references the exception for a foreign-country judgment “obtained by fraud that deprived the losing party of an adequate opportunity to present its case.” A.R.S. § 12-3253(C)(2). That exception encompasses only a limited category of fraud – that which deprived the defendant of an opportunity to be heard – and as described above, *see supra* ¶¶ 15–19, the record reflects no such deprivation.

¶22 Next, Ali's assertion that he has not been to Nigeria since 2009 suggests an argument that the Nigerian court was a “seriously inconvenient forum” under A.R.S. § 12-3253(C)(6). But that exception applies only “[i]n the case of jurisdiction based only on personal service,” and here, the Nigerian court's jurisdiction was based not just on personal service but rather on a transaction that occurred in Nigeria, with personal service through email on an Arizona defendant. *See* FCTA R. Civ. P., Order 35. This exception is thus inapplicable.

¶23 Finally, Ali suggests the Nigerian proceedings “raise substantial doubt about the integrity of the rendering court,” A.R.S. § 12-3253(C)(7), because the Nigerian court rendered judgment without his evidence or presence at the hearing, the Nigerian judge's signature was allegedly forged on the judgment, and the Nigerian court was allegedly biased in Ejeh's favor because of his status as a retired high-ranking officer in the Nigerian Air Force. As described above, Ali has not established that the Nigerian judicial system is corrupt simply because it rendered a default judgment. *See supra* ¶¶ 15–19. And because Ali neither raised nor developed the other facets of this argument before the superior court, he

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has waived them on appeal. *See City of Tucson v. Tanno*, 245 Ariz. 488, 494, ¶ 22 (App. 2018).

¶24 Accordingly, Ali has not established any discretionary exception to recognition under A.R.S. § 12-3253(C).

**C. Merits of the Nigerian Suit.**

¶25 Ali offers several proposed defenses to the merits of the underlying Nigerian suit. But the merits of the foreign-country judgment are beyond the scope of an action for recognition of that judgment under the Act. *See* A.R.S. § 12-3254(B). Rather, if the Arizona court determines the foreign-country judgment is entitled to recognition under A.R.S. §§ 12-3252 and -3253, the judgment is “[c]onclusive” and “[e]nforceable.” A.R.S. § 12-3254(B)(1)–(2). Any proposed defenses to the Nigerian suit are thus inapposite now.

**II. Arizona Proceedings.**

¶26 Ali next argues that the superior court’s decision to grant the Petition and recognize the Nigerian judgment was premature, depriving him of his right to a hearing and to present evidence.

**A. Hearing.**

¶27 Under A.R.S. § 12-3253(A), a court is required to recognize a foreign-country judgment to which the Act applies unless an exception under subsection (B) or (C) applies. The Act does not specifically require a hearing, *see* A.R.S. §§ 12-3251 to -3254, and neither party requested one here. Although there may be circumstances in which disputed facts regarding, for example, possible exceptions under § 12-3253(B) or (C) necessitate an evidentiary hearing, Ali offered no basis to conclude any exception applied. *See supra* ¶¶ 13–24. The superior court was thus required to recognize the Nigerian judgment, *see* A.R.S. § 12-3253(A), and did not err by doing so without holding a hearing.

**B. Timing.**

¶28 For the first time on appeal, Ali asserts that he planned to file an amended response to the Petition with court documents he requested from Nigeria that he did not receive until March 5, 2024, nearly a month after he filed his response and a day after Ejeh filed his reply. Because Ali did not inform the court of this plan, the court did not err by granting the



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Petition on March 11, 2024, after the matter was fully briefed without Ali establishing an exception under the Act. *See* A.R.S. § 12-3253(A).

**III. Attorney's Fees on Appeal.**

¶29 EjeH requests an award of attorney's fees under A.R.S. § 12-341.01. Because this action does not arise out of a contract but under the Act, we deny EjeH's request. *See* A.R.S. §§ 12-341.01(A), -3254(A). As the successful party, however, EjeH is entitled to his taxable costs on appeal upon compliance with ARCAP 21.

**CONCLUSION**

¶30 We affirm.



MATTHEW J. MARTIN • Clerk of the Court

FILED: JR