

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

May 15, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-2022

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

**BRISTOL VETERINARY
SERVICE, S.C.,**

Plaintiff-Respondent,

v.

WILLIAM SCHMIDT,

Defendant-Appellant,

**KATHERINE SCHMIDT,
d/b/a SCHMIDT ARABIANS,**

Defendant.

APPEAL from a judgment of the circuit court for Kenosha County:
ROBERT V. BAKER, Judge. *Affirmed.*

Before Brown, Nettesheim and Snyder, JJ.

PER CURIAM. William Schmidt appeals pro se from a judgment in favor of Bristol Veterinary Service, S.C. for unpaid bills. Schmidt's defense to the action was that the veterinary bills were incurred by his wife,

Katherine, unknown to him. The issues on appeal are whether the circuit court had jurisdiction over Schmidt, a resident of Illinois, and whether the evidence is sufficient to sustain a finding that Schmidt owed the sums billed. We affirm the judgment.

This was a collection action. The trial court found Schmidt liable to Bristol Veterinary on the basis of apparent agency. There are three elements to apparent agency: (1) acts by the agent or principal justifying belief in the agency, (2) knowledge thereof of the party sought to be held, and (3) reliance consistent with ordinary care and prudence. *Vanderveest v. Kauffman Pizza, Inc.*, 60 Wis.2d 230, 245, 208 N.W.2d 428, 435 (1973). Whether the facts as determined fulfill a legal conclusion presents a question of law which we review de novo. *Popp v. Popp*, 146 Wis.2d 778, 787, 432 N.W.2d 600, 603 (Ct. App. 1988).

The evidence established that Bristol Veterinary provided services on an Illinois horse farm owned by Schmidt and his wife. The Schmidts were known to be husband and wife. Schmidt's name and home address were included on health certificates issued on five horses. Although Schmidt himself never contacted Bristol Veterinary for services, bills were mailed to the Schmidt residence in the name of Schmidt Arabians. Bristol Veterinary was never informed that Schmidt himself was not a part of the horse operation. The evidence was sufficient to establish that Bristol Veterinary was justified in believing that Schmidt was involved in the joint venture and that Schmidt's wife acted as his agent. It also establishes that reliance on the relationship was consistent with ordinary care.

Schmidt argues that he lacked any knowledge about the horse operation and the bills incurred. Schmidt admitted that difficulties in his marital relationship prevented him from viewing mail sent to the residence or discussing the horse farm with his wife. However, Schmidt admitted that he agreed to help his wife buy the horse farm. He was not sure whether his wife had incorporated the business. Moreover, at one point in the early 1990s, Schmidt became concerned about the size of the horse farm and attempted to warn his wife to scale back. When his attempt to discuss the matter proved futile, Schmidt admittedly threw up his hands and said, "[A]s long as I'm not involved, I don't care." This evidence establishes some working knowledge of the services and costs necessary to maintain the horse farm. That Schmidt chose

not to keep apprised of the costs or affirmatively protect himself is not a defense.

Schmidt correctly points out that the trial court made a factual error when it noted that Schmidt lives at the horse farm and was able to observe what was happening there. Schmidt does not live on the farm. The trial court's error does not affect the determination that Schmidt is liable to Bristol Veterinary under the doctrine of apparent agency.

Finally, we reject Schmidt's claim that the trial court lacked jurisdiction over him because he did not have sufficient minimum contacts with Wisconsin. The evidence pertaining to the services rendered at the farm, services provided at the veterinarian office in Wisconsin and payments made in Wisconsin establish a business enterprise with sufficient contacts to acquire jurisdiction over Schmidt. *See* § 801.05(1)(d), STATS. Those contacts are imputed to Schmidt by virtue of the apparent agency relationship.

By the Court.— Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.