



Warden Pdf. utilitas bangunan hartono purbo pdf 11 by the defendant. Id. at 762. The Court held that these claims could not be asserted in a garnishment action because "a garnishment procedure cannot be utilized to secure a criminal judgment" and because the underlying personal injury action in Smith did not accrue until the defendant had been convicted. Id. at 762-63, 764. The court distinguished its decision from the earlier Wiener, finding that the action in Wiener did not involve a garnishment proceeding but rather sought only to correct a defect in a judgment. Id. at 763. Additionally, the Smith court found that the

pendency of Wiener's appeal to the supreme court did not toll the running of the statute of limitations because the case did not present any issues of statutory tolling. Id. at 764. A portion of the court's opinion in Smith, which seems to conflict with the court's earlier decision in McCormick, can be distinguished from our case because the court's application of our Supreme Court's reasoning in McCormick is not directly applicable to the facts in Smith. Specifically, we read Smith as narrowly tailoring the holding of McCormick to the unique circumstances of a garnishment proceeding and tolling the applicable statute of limitations in that case. Smith did not dictate that the *1029 term "accrued" in McCormick should be interpreted with the same meaning in all cases involving pendency of a lawsuit, including a garnishment proceeding. Moreover, there was no concern in Smith about tolling

the statute of limitations in the action based on fraud or constructive fraud because that claim arose in the action in the underlying personal injury action. In addition, the Smith court did not discuss its earlier holding in Wiener regarding tolling in civil cases. "Generally, statutes of limitations begin to run when the cause of action accrues, which is usually the time that the harm resulting from the act is capable of being discovered." Horton v. Big Spring State Bank, 744 S.W.2d 900, 903 (Tex.App.-Eastland 1988, writ denied). The first question we must ask when analyzing the accrual of Mr. Ayens' claims against Abilene is whether the actions giving rise to the cause of action occurred at the time of the burglary or, alternatively, at the time that the insurance company issued its underinsured motorist coverage endorsement. When Mr. Ayens was

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