6-27/110.00 Possession of Writ by Levying Officer

A sale under a writ of execution must be made within two years of the issuance thereof, unless it be of an interest in personal property in the estate of a decedent, in which case it must be within one year after the date the decree distributing the interest became final. (CCP 699.560, 700.200; Ruddell v. Warne, 73 CA 2d 907)

The levying officer should not return a writ under which a levy was performed in a case where an execution sale is to be made, as the return of the writ to court terminates the power and duty of the levying officer. (Duncan v. Standard Accident Ins. Co., 1 C 2d 385) Although the judgment creditor could obtain a new writ, there no longer being a provision for redelivery of the prior writ upon the judgment creditor's request, another levy on the property would have to be performed under the new writ for the property to be sold under it. In such a case the priority of the judgment lien created by the second levy would relate back to the first levy if the prior lien had not expired at the time of the second levy. (CCP 697.020)