

SUPREME COURT OF ALABAMA

SSC Selma Operating Co. v. Gordon

112 So. 3d 36 (Ala. 2012) · Decided November 16, 2012

SUMMARY

The Alabama Supreme Court affirmed the denial of a nursing-home defendants' motion to compel arbitration in a medical-malpractice wrongful-death action. The court held that the trial court was required to conduct the jury trial previously ordered to determine whether a valid arbitration agreement existed before compelling arbitration. It further explained that evidentiary rulings on a motion in limine are not final judgments and must be preserved through a proffer at trial and reviewed on appeal from a final judgment.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Justice; Malone, C.J.; Parker, J.; Shaw, J.; Stuart, J.; Wise, J.
JURISDICTION	Alabama
DECIDED	November 16, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Warren Manor defendants appealed as of right under Rule 4(d), Ala. R. App. P., from the Dallas Circuit Court's denial of their renewed motion to compel arbitration in a medical-malpractice wrongful-death action.
STANDARD OF REVIEW	The court reviewed whether the trial court complied with the Supreme Court of Alabama's remand mandate and whether the renewed motion to compel arbitration was premature. Evidentiary rulings on a motion in limine were not reviewed on this interlocutory appeal because no final judgment had been entered.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	SSC Selma Operating Company, LLC, doing business as Warren Manor Health & Rehabilitation Center, Bernard Turk, administrator of Warren Manor Health & Rehabilitation Center v. Ethel Gordon, administratrix of the estate of Jimmy Lee Gordon

TOPICS

arbitration

appellate procedure

evidence

preservation of error

civil procedure

PRACTICE AREAS

arbitration

civil procedure

appellate procedure

evidence

health law

QUESTIONS PRESENTED

1. Whether the trial court properly denied the Warren Manor defendants' renewed motion to compel arbitration before conducting the jury trial mandated to determine whether a valid arbitration agreement existed.
2. Whether the trial court's ruling on Gordon's motion in limine constituted a final, appealable judgment or otherwise eliminated the need for the mandated trial.
3. Whether the defendants could obtain appellate review of the evidentiary ruling excluding the photocopy before a final judgment was entered.

HOLDINGS

1. The trial court properly denied the renewed motion to compel arbitration because it had not yet conducted the jury trial required by the Supreme Court of Alabama's prior mandate to determine whether a valid arbitration agreement existed.
2. The ruling granting Gordon's motion in limine was not a final judgment and did not obviate the requirement that the trial occur and produce a final judgment on whether a valid arbitration agreement existed.
3. Any appeal challenging exclusion of the photocopy or other evidence concerning the arbitration agreement would be premature before entry of a final judgment; the defendants must proffer the evidence at trial to preserve the issue for a later appeal.

KEY QUOTATIONS

"It is well settled that, after remand, the trial court should comply strictly with the mandate of the appellate court." (39)

"A ruling granting or denying a motion in limine is not a final judgment" (40)

"At the yet-to-be conducted trial on that issue, the Warren Manor defendants may again proffer the evidence previously excluded by the trial court, and, in fact, they must do so if they hope to preserve the issue for eventual appeal." (40-41)

FACTUAL BACKGROUND

Ethel Gordon asserted medical-malpractice wrongful-death claims against SSC Selma Operating Company and Bernard Turk concerning the death of her husband after his admission to Warren Manor Health & Rehabilitation Center. The defendants claimed that Gordon had signed an arbitration agreement, but the original agreement could not be located and the defendants sought to introduce a photocopy. The trial court excluded the duplicate

and, before conducting the jury trial previously ordered to determine whether a valid arbitration agreement existed, denied the defendants' renewed motion to compel arbitration.

PROCEDURAL HISTORY

In an earlier appeal, the Supreme Court of Alabama held that a jury trial was required to determine whether a valid arbitration agreement existed between Gordon and SSC. On remand, the trial court granted Gordon's motion in limine excluding a duplicate of the alleged arbitration agreement, and the Supreme Court denied the defendants' mandamus petition without opinion. Before conducting the mandated trial, the trial court denied the defendants' renewed motion to compel arbitration, leading to this appeal.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court must conduct the jury trial mandated in Gordon I to determine whether a valid arbitration agreement exists between Gordon and SSC, enter a final judgment on that issue, and permit the parties to preserve evidentiary objections through appropriate trial proffers.

CASES CITED

- SSC Selma Operating Co. v. Gordon, 56 So. 3d 598, 603 (Ala. 2010)
- Fleetwood Enters., Inc. v. Bruno, 784 So. 2d 277, 280 (Ala. 2000)
- TranSouth Fin. Corp. v. Bell, 739 So. 2d 1110, 1114 (Ala. 1999)
- Ex parte Meadows, 782 So. 2d 277, 280 (Ala. 2000)
- Chastain v. Robinson-Humphrey Co., 957 F.2d 851, 854 (11th Cir. 1992)
- T & R Enters. v. Continental Grain Co., 613 F.2d 1272, 1278 (5th Cir. 1980)
- Ex parte Caver, 742 So. 2d 168, 172 n. 4 (Ala. 1999)
- Ex parte Edwards, 727 So. 2d 792, 794 (Ala. 1998)
- Auerbach v. Parker, 558 So. 2d 900, 902 (Ala. 1989)
- Bush v. Alabama Farm Bureau Mutual Casualty Insurance Co., 576 So. 2d 175, 177-78 (Ala. 1991)
- State v. Askew, 455 So. 2d 36, 37 (Ala. Civ. App. 1984)
- Jenkins v. Atelier Homes, Inc., 62 So. 3d 504, 509-10 (Ala. 2010)
- Ex parte Sysco Food Servs. of Jackson, LLC, 901 So. 2d 671, 674 (Ala. 2004)