

SUPREME COURT OF OKLAHOMA

Frazier v. Bruce

2021 OK 14 · No. 119251 · Decided March 29, 2021

SUMMARY

The Oklahoma Supreme Court denied Mia Frazier's request to disqualify a district court judge after the judge granted a continuance of a hearing on visitation enforcement. The Court held that an alleged legal error was insufficient grounds for disqualification and characterized the filing as frivolous and intended to delay proceedings. It granted the real party in interest's motion for attorney fees and authorized the district court to determine a reasonable sanction.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Chief Justice Darby; Vice Chief Justice Kane; Justice Winchester; Justice Edmondson; Justice Combs; Justice Gurich; Justice Kauger; Justice Rowe
JURISDICTION	Oklahoma
DECIDED	March 29, 2021
DOCKET	119251
DISPOSITION	other
PROCEDURAL POSTURE	Frazier invoked the Oklahoma Supreme Court's original jurisdiction and sought disqualification of District Judge Tammy Bruce under Rule 15 after the judge continued a visitation-enforcement hearing.
PRECEDENTIAL VALUE	unpublished and subject to revision or withdrawal until released for publication
PARTIES	Mia Frazier v. Tammy Bruce, William Musseman, Travis Benavidez

TOPICS

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QUESTIONS PRESENTED

1. Whether a judge's allegedly erroneous continuance order constituted grounds for judicial disqualification under Rule 15.
2. Whether Frazier's disqualification filing was frivolous and intended to delay or disrupt the underlying proceedings, warranting an attorney-fee sanction.
3. Whether the district court could conduct an evidentiary hearing to determine the reasonable amount of attorney fees awarded as a sanction.

HOLDINGS

1. A mere mistake in a court's legal ruling is not grounds for judicial disqualification; Frazier's challenge to the continuance therefore provided an insufficient basis for disqualification.
2. A filing invoking the Supreme Court's original jurisdiction to disqualify a judge is frivolous when its sole basis is a ground the Court has routinely rejected, and sanctions may be imposed when the filing was also made to delay or disrupt the underlying proceedings.
3. The district court was authorized to hold an evidentiary hearing to determine the reasonable attorney fee to award to Benavidez as a sanction against Frazier.

KEY QUOTATIONS

“A mere mistake in a court's legal ruling is not grounds for disqualification.” (¶2)

“As Ms. Frazier's filing was both frivolous and filed to delay or disrupt proceedings, Real Party in Interest Travis Benavidez's Motion for Attorney Fees is granted.” (¶4)

FACTUAL BACKGROUND

Frazier sought enforcement of visitation shortly after Benavidez moved to suspend visitation based on serious allegations concerning Frazier's behavior with the child. Two days before the enforcement hearing, Benavidez requested a continuance, asserting that Frazier had refused to cooperate with the guardian ad litem's interview. Judge Bruce granted the continuance, moving the hearing beyond the twenty-one-day period in 43 O.S. Supp. 2014, § 111.3(B), but within the statute's forty-five-day decision deadline. Frazier then sought the judge's disqualification, alleging that the continuance was unlawful and created an appearance of impropriety.

PROCEDURAL HISTORY

Frazier filed a motion to enforce visitation, which was set for hearing within the statutory deadline. After Benavidez requested a continuance, the district court reset the hearing outside the twenty-one-day period but within the forty-five-day decision period. Frazier sought Judge Bruce's disqualification rather than seeking an original-jurisdiction writ of mandamus directing the court to hold the hearing. The Supreme Court denied the disqualification basis as insufficient, granted Benavidez's motion for attorney fees, and authorized the district court to conduct an evidentiary hearing concerning the amount of fees.

DISPOSITION

other

REMAND INSTRUCTIONS

The Tulsa County District Court was authorized to hold an evidentiary hearing to determine the reasonable attorney fee to award Benavidez as a sanction.

CASES CITED

- Oklahoma Co. v. O'Neil, 1968 OK 63, 440 P.2d 978
- Clark v. Board of Education of Ind. Sch. Dist. No. 89, 2001 OK 56, 32 P.3d 851

OPINION

PER CURIAM.

FRAZIER v. BRUCE Skip to Main Content Accessibility Statement Help Contact Us e-payments Careers Home Courts Decisions Programs News Legal Research Court Records Quick Links OSCN Found Document:FRAZIER v. BRUCE Previous Case Top Of Index This Point in Index Citationize Next Case Print Only FRAZIER v. BRUCE2021 OK 14Case Number: 119251Decided: 03/29/2021THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2021 OK 14, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. MIA FRAZIER, Petitioner, v. THE HONORABLE TAMMY BRUCE, THE HONORABLE WILLIAM MUSSEMAN, District Court for the Fourteenth Judicial District, Respondents, and TRAVIS BENAVIDEZ, Real Party in Interest. ORDER ¶1 Petitioner Mia Frazier sought to disqualify Tulsa County District Court Judge Tammy Bruce after Judge Bruce granted a continuance to a hearing on Ms. Frazier's motion to enforce visitation.

Ms. Frazier's motion to enforce visitation almost immediately followed Real Party in Interest Travis Benavidez's motion to suspend visitation--which raised serious allegations about Ms. Frazier's behavior with the child. Two days before the hearing, which the district court timely set for Ms. Frazier's motion to enforce visitation, Mr. Benavidez requested a continuance, alleging that Ms. Frazier refused to cooperate with the guardian ad litem for an interview about Mr. Benavidez's allegations.

The district court granted Mr. Benavidez's request for a continuance, setting the hearing outside of the 21-day deadline of 43 O.S. Supp. 2014, § 111.3(B), but inside § 111.3(F)'s 45-day decision deadline. Well before the date of the reset hearing, Ms. Frazier sought Judge Bruce's disqualification under Rule 15 of the Rules for District Courts of Oklahoma, arguing the

continuance was unauthorized by law and established the appearance of impropriety. ¶2 Ms. Frazier's basis for the disqualification was completely insufficient.

A mere mistake in a court's legal ruling is not grounds for disqualification. *Oklahoma Co. v. O'Neil*, 1968 OK 63, ¶ 46, 440 P.2d 978, 989. A filing seeking to invoke this Court's original jurisdiction to disqualify a judge where the sole basis for disqualification has been routinely rejected by this Court amounts to a frivolous filing. Okla. Supreme Court Rules 1.191(j), 12 O.S.

Supp. 2013, app. 1. Additionally, the Court will not ignore the behavior of the parties in the proceedings that led to a party invoking Rule 15 and seeking the judge's disqualification. Nor will it ignore a party's prior sanctioned-conduct in the underlying litigation. ¶3 The Court also notes that instead of seeking to file an application to assume original jurisdiction and a petition for a writ of mandamus to direct Judge Bruce to hold the hearing, Ms. Frazier instead invoked Rule 15, bringing all proceedings to a halt.

Clark v. Board of Education of Ind. Sch. Dist. No. 89, 2001 OK 56, ¶ 7, 32 P.3d 851, 855. Ms. Frazier's pursuit of disqualification only further delayed the hearing on her motion to enforce visitation as all district court proceedings were halted until the Rule 15 process ended. Had Ms. Frazier sought to require Judge Bruce to hold a hearing, she could have sought a writ of mandamus to direct Judge Bruce to hold the hearing on her motion to enforce visitation within 21 days of filing the motion per 43 O.S., § 111.3(B).

Instead she abandoned her quest for a hearing, and sought a frivolous judicial disqualification. Ms. Frazier's decision to pursue disqualification also shows an intention to disrupt or delay lower court proceedings instead of timely resolving her motion to enforce visitation. ¶4 As Ms. Frazier's filing was both frivolous and filed to delay or disrupt proceedings, Real Party in Interest Travis Benavidez's Motion for Attorney Fees is granted.

Okla. Supreme Court Rule 1.191(j), 12 O.S. Supp. 2013, app.1. The Tulsa County District Court is authorized to hold an evidentiary hearing to determine a reasonable attorney fee to award to Real Party in Interest Travis Benavidez as a sanction against Petitioner Mia Frazier. DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 29th DAY OF MARCH, 2021. /S/CHIEF JUSTICE CONCUR: Darby, C.J., Kane, V.C.J., Winchester, Edmondson, and Combs, JJ. CONCUR IN RESULT: Gurich, J. DISSENT: Kauger and Rowe, JJ. Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.

Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases CiteNameLevel 2001 OK 56, 32 P.3d 851, 72 OBJ 1953, CLARK v. BOARD OF EDUCATION OF IND. SCH. DIST. NO. 89Discussed 1968 OK 63, 440 P.2d 978, OKLAHOMA COMPANY v. O'NEILDiscussed Title 43. Marriage CiteNameLevel 43 O.S. 111.3, Duty to Facilitate Visitation

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