

SUPREME COURT OF MISSISSIPPI

City of Belzoni v. Johnson

121 So. 3d 216 (Miss. 2013) · Decided September 12, 2013

SUMMARY

The Mississippi Supreme Court held that the City of Belzoni, a principal liable for part of an employment-discrimination judgment, could not serve as a surety for its coappellants on a supersedeas bond. Because the bond lacked valid sureties and the City was exempt from the bond requirement, the circuit court lacked authority to enforce the bond against the City for the other defendants’ portions of the judgment. The court reversed and rendered the order enforcing the bond.

CASE DETAILS

|                       |                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Mississippi                                                                                                                                                                                     |
| WRITING FOR THE COURT | Waller, Chief Justice; Waller, C.J.; Dickinson, P.J.; Randolph, P.J.; Lamar, J.; Kitchens, J.; Chandler, J.; Pierce, J.; King, J.; Coleman, J.                                                                   |
| JURISDICTION          | Mississippi                                                                                                                                                                                                      |
| DECIDED               | September 12, 2013                                                                                                                                                                                               |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | The City of Belzoni appealed from an order of the Humphreys County Circuit Court enforcing a supersedeas bond against the City for the entire judgment entered against the City and two individual codefendants. |
| STANDARD OF REVIEW    | De novo review applies to the trial court's construction of a supersedeas bond because a supersedeas bond is a contract and contract-construction questions are questions of law.                                |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                   |
| PARTIES               | City of Belzoni v. Shirley Johnson                                                                                                                                                                               |

TOPICS

- appellate procedure
- civil procedure
- municipal law
- government liability

PRACTICE AREAS

- appellate procedure
- civil procedure
- municipal law
- supersedeas bonds

## QUESTIONS PRESENTED

1. Whether the City of Belzoni could qualify as a resident surety under Mississippi Rule of Appellate Procedure 8 when it was a principal and coappellant liable for part of the judgment.
2. Whether the circuit court had authority under Mississippi Rule of Civil Procedure 65.1 to enforce against the City a supersedeas bond that contained no valid sureties.
3. Whether the City could be held liable for the portions of the judgment assessed against its codefendants based on the language of the supersedeas bond.

## HOLDINGS

1. A party principally liable on a judgment and appearing as a coappellant cannot also act as a surety for the obligations of its coappellants under Mississippi Rule of Appellate Procedure 8.
2. A circuit court lacks authority under Mississippi Rule of Civil Procedure 65.1 to enforce a supersedeas bond against a principal when the bond contains no valid sureties.
3. A municipality is exempt from the requirement to post a supersedeas bond when appealing a judgment and obtaining a stay under Mississippi Code section 11-51-101(1) and the applicable procedural rules.

## KEY QUOTATIONS

*“Because the City is principally liable on the judgment, it could not act as a “resident surety” within the meaning of Rule 8.” (at 220)*

*“Allowing Johnson to enforce the entire judgment against the City would force the City to pay an amount greater than the jury’s verdict against it, for a claim not brought against it, and it would absolve the other two defendants of their individual liability.” (at 222)*

## FACTUAL BACKGROUND

Johnson, the only female patrol officer on the Belzoni police force at the relevant time, sued the City, its police chief, and another officer for gender discrimination and sexual harassment. The jury found for Johnson and assessed \$50,000 against each defendant severally, with attorney’s fees and expenses allocated equally. The defendants filed a supersedeas bond naming the City as principal and stating that payment was to be made by the three defendants severally while also using joint-and-several language. After the appeal was affirmed, Johnson sought to enforce the entire judgment against the City based on that bond.

## PROCEDURAL HISTORY

Johnson sued the City, Mickey Foxworth, and David James for employment discrimination and sexual harassment. A jury found for Johnson and awarded \$50,000 against each defendant severally; the trial court entered a final judgment allocating \$71,244.96 to each defendant. The defendants appealed, and the Mississippi Supreme Court affirmed the judgment. After Johnson collected the City’s one-third share, the circuit court granted her motion to enforce the supersedeas bond against the City for the remaining two-thirds. The Supreme Court reversed and rendered that enforcement order.

## DISPOSITION

## CASES CITED

- City of Belzoni v. Johnson, 80 So. 3d 99, 102 (Miss. 2012)
- Shoebridge v. Will C. Hartwell Realty & Ins. Co., 244 Miss. 630, 143 So. 2d 432, 434 (1962)
- Miss. State Highway Comm'n v. Patterson Enters. Ltd., 627 So. 2d 261, 263 (Miss. 1993)
- Leach v. Tingle, 586 So. 2d 799, 801 (Miss. 1991)
- Aetna Ins. Co. v. Robertson, 127 Miss. 440, 90 So. 120, 122 (1921)
- Hudson v. Gray, 58 Miss. 591, 592 (1881)
- Jayne v. W.B. Nash Lumber Co., 108 Miss. 449, 66 So. 813, 814 (1914)
- Copeland v. Robertson, 236 Miss. 95, 108 So. 2d 419, 420-421 (1959)
- Hemphill v. Hemphill, 199 Miss. 428, 24 So. 2d 855 (1946)
- Williams v. Shivers, 222 Miss. 626, 76 So. 2d 838 (1955)
- Baskin v. May, 17 Miss. 373, 374 (Miss. Err. & App. 1848)
- Picou v. City of Jackson, 153 F. Supp. 2d 891 (S.D. Miss. 2001), rev'd on other grounds, Picou v. City of Jackson, Miss., 48 F. App'x 102 (5th Cir. 2002)
- Burlington Industries, Inc. v. Ellerth, 524 U.S. 742, 759 (1998)
- E. Miss. State Hosp. v. Callens, 892 So. 2d 800, 812 (Miss. 2004)

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