

SUPREME COURT OF MISSISSIPPI

James Lofton a/k/a James Bernard Lawson v. United States of America, United States Government, State of Mississippi, and Southern Plantations

785 So. 2d 287 (Miss. 2001) · No. No. 2000-CP-00671-SCT · Decided May 17, 2001

SUMMARY

The Supreme Court of Mississippi affirmed dismissal of James Lofton's pro se 42 U.S.C. § 1983 complaint for failure to state a claim. The court held that Lofton did not identify any person acting under color of state law, could not sue the State under § 1983, improperly raised the Prison Litigation Reform Act constitutional challenge for the first time on appeal, and was not entitled to default judgment because only the State had been served and it timely responded.

CASE DETAILS

|                       |                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Mississippi                                                                                                                                                       |
| WRITING FOR THE COURT | Cobb, Justice; Pittman, C.J.; Mills, J.; Cobb, J.                                                                                                                                  |
| JURISDICTION          | Mississippi                                                                                                                                                                        |
| DECIDED               | May 17, 2001                                                                                                                                                                       |
| DOCKET                | No. 2000-CP-00671-SCT                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Appeal from the Hinds County Circuit Court's dismissal under Mississippi Rule of Civil Procedure 12(b)(6) of a pro se complaint asserting claims under 42 U.S.C. §§ 1983 and 1985. |
| STANDARD OF REVIEW    | A Rule 12(b)(6) motion presents a question of law reviewed de novo.                                                                                                                |
| PRECEDENTIAL VALUE    | Published Mississippi Supreme Court opinion; precedential.                                                                                                                         |
| PARTIES               | James Lofton a/k/a James Bernard Lawson v. United States of America, United States Government, State of Mississippi, Southern Plantations                                          |

TOPICS

- motions to dismiss
- section 1983
- default judgment
- service of process
- appellate procedure

## PRACTICE AREAS

civil procedure

civil rights

constitutional law

appellate procedure

## QUESTIONS PRESENTED

1. Whether the circuit court violated Lofton's constitutional rights by dismissing his pro se complaint under Rule 12(b)(6) without allowing him to present evidence.
2. Whether Lofton could raise on appeal his constitutional challenge to the Prison Litigation Reform Act of 1995 when he had not raised that issue in the circuit court.
3. Whether Lofton was entitled to a default judgment when only the State of Mississippi had been served and the State timely responded.

## HOLDINGS

1. Dismissal was proper because Lofton's complaint failed to state a claim under 42 U.S.C. § 1983: it did not identify a person acting under color of state law, and the State of Mississippi was not a person subject to § 1983 liability.
2. Lofton could not raise his constitutional challenge to the Prison Litigation Reform Act for the first time on appeal.
3. Lofton was not entitled to a default judgment because process was not served on the defendants other than the State, and the State timely responded.

## KEY QUOTATIONS

*“The two essential elements of a § 1983 claim are: (1) the conduct complained of was committed by a person acting under the color of state law; and (2) this conduct deprived a person of rights, privileges, or immunities secured by the Constitution or laws of the United States.” (290)*

*“Because process was never served on any of the defendants except the State of Mississippi, which timely responded, Lofton was not entitled to a default judgment.” (290)*

## FACTUAL BACKGROUND

Lofton, who was incarcerated at Unit 32 of the Mississippi state penitentiary at Parchman, filed a pro se complaint seeking substantial compensatory and punitive damages, land, and a home. The complaint made general allegations and did not identify any specific person acting under color of state law who allegedly committed the violations. Only the State of Mississippi was served, and it timely responded to the complaint.

## PROCEDURAL HISTORY

Lofton filed an in forma pauperis complaint in the Hinds County Circuit Court against four defendants. Only the State of Mississippi was properly served; the State filed a Rule 12(b) motion to dismiss, and Lofton filed a motion for default judgment. The circuit court dismissed the complaint for failure to state a claim, and the Mississippi Supreme Court affirmed.

## DISPOSITION

affirmed

## CASES CITED

- T.M. v. Noblitt, 650 So. 2d 1340, 1342 (Miss. 1995)
- Tucker v. Hinds County, 558 So. 2d 869, 872 (Miss. 1990)
- UHS-Qualicare, Inc. v. Gulf Coast Community Hospital, Inc., 525 So. 2d 746, 754 (Miss. 1987)
- American Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 49-50 (1999)
- Barrett v. Miller, 599 So. 2d 559, 563 (Miss. 1992)
- Wright v. White, 693 So. 2d 898, 904 (Miss. 1997)
- Will v. Michigan Department of State Police, 491 U.S. 58, 71 (1989)
- Crowe v. Smith, 603 So. 2d 301, 305 (Miss. 1992)
- Parker v. Mississippi Game & Fish Commission, 555 So. 2d 725, 730 (Miss. 1989)

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