

SUPREME COURT OF MISSISSIPPI

Iris M. Wilner v. M. Neil White, M.D., and Gulf Coast OB/GYN, P.A.

929 So. 2d 315 (Miss. 2006) · No. No. 2003-CT-01733-SCT · Decided July 16, 2003

SUMMARY

The Supreme Court of Mississippi held that an amended medical-malpractice complaint adding defendants after expiration of the statute of limitations could not be treated as an original complaint or relate back to the original complaint. The court concluded that the plaintiff had not obtained the required leave to amend and had not shown a qualifying mistake concerning the defendants’ identities under Mississippi Rules of Civil Procedure 15(c) and 9(h). The court reversed the Court of Appeals and reinstated and affirmed the circuit court’s summary judgment for the defendants.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Carlson, Justice; Smith, C.J.; Waller, P.J.; Cobb, P.J.; Carlson, J.; Dickinson, J.; Randolph, J.; Easley, J.; Graves, J.; Diaz, J., not participating
JURISDICTION	Mississippi
DECIDED	July 16, 2003
DOCKET	No. 2003-CT-01733-SCT
DISPOSITION	reversed
PROCEDURAL POSTURE	On writ of certiorari to review the Mississippi Court of Appeals' decision reversing the circuit court's grant of summary judgment to Dr. White and Gulf Coast OB/GYN, P.A. The Supreme Court reviewed whether Wilner's amended complaint was timely, could be treated as an original complaint, or related back to the original complaint.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court examines the evidentiary materials in the record, views the evidence in the light most favorable to the nonmovant, and affirms when no genuine issue of material fact exists and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court en banc opinion; precedential.
PARTIES	Iris M. Wilner v. M. Neil White, M.D., Gulf Coast OB/GYN, P.A.

TOPICS

statute of limitations

motion to amend

summary judgment

civil procedure

medical malpractice

PRACTICE AREAS

Civil procedure

Medical malpractice

Appellate procedure

QUESTIONS PRESENTED

1. Whether an amended complaint filed after the statute of limitations may be treated as an original complaint when the motion to amend was filed before the limitations period expired.
2. Whether the amended complaint adding Dr. White and Gulf Coast OB/GYN could relate back to the original complaint under Mississippi Rules of Civil Procedure 15(c) or 9(h).
3. Whether the circuit court properly granted summary judgment because the claims against the newly added defendants were time-barred.

HOLDINGS

1. An amended complaint filed in an existing action cannot be treated as an original complaint merely because it was filed before the statute of limitations expired, particularly when the original complaint remained viable and leave of court or written consent was required.
2. The amended complaint adding White and Gulf Coast OB/GYN did not relate back to the original complaint because Wilner did not satisfy the requirement that the addition result from a mistake concerning the identity of the proper party.
3. Rule 9(h) did not permit relation back because Wilner added White and Gulf Coast OB/GYN rather than substituting their true names for fictitious defendants, and she was not ignorant of White's identity in the manner contemplated by the rule.
4. Summary judgment for White and Gulf Coast OB/GYN was proper because the amended complaint was filed after the statute of limitations expired, did not relate back, and therefore was time-barred.

KEY QUOTATIONS

“To the extent that King could be interpreted to allow a party to split causes of action, King is expressly overruled.” (§5)

“For these reasons, we find the amended complaint could not be treated as an original complaint; the amended complaint did not relate back to the original complaint; and, although the motion to amend was filed prior to the expiration of the applicable statute of limitations, there was no ruling on the motion to amend prior to the expiration of the statute of limitations, and thus, the trial court properly dismissed the putative amended complaint.” (§9)

“There was no mistake as to White’s identity, and Wilner did not exercise reasonable diligence in adding the newly named defendants.” (§10)

FACTUAL BACKGROUND

Wilner underwent a diagnostic laparoscopy performed by Dr. Neil White on January 27, 1997, and later experienced pain, weakness, and numbness in her left leg before being diagnosed with compression neuropathy. She filed suit on February 12, 1998, naming other defendants and John Does, but did not name White or Gulf Coast OB/GYN. On January 27, 1999, she filed an amended complaint adding White and the clinic, although she had already identified White in the original complaint and had deposed him months earlier. The applicable two-year statute of limitations had expired before the motion to amend was ruled upon.

PROCEDURAL HISTORY

Wilner filed a medical-malpractice action against Singing River Hospital, a nurse, and John Doe defendants. She later filed an amended complaint adding Dr. White and Gulf Coast OB/GYN without first obtaining leave of court, and the circuit court denied leave, dismissed the putative amended complaint, and held that it could not relate back. The Court of Appeals initially reversed, the circuit court then granted summary judgment based on the statute of limitations, and the Court of Appeals ultimately reversed that judgment on rehearing. The Mississippi Supreme Court granted certiorari, reversed the Court of Appeals, and reinstated and affirmed the circuit court's judgment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment of the Court of Appeals was reversed, and the final judgment of the Jackson County Circuit Court was reinstated and affirmed.

CASES CITED

- Wilner v. White, 788 So. 2d 822 (Miss. Ct. App. 2001)
- Curry v. Turner, 832 So. 2d 508 (Miss. 2002)
- King v. American RV Centers, Inc., 862 So. 2d 558 (Miss. Ct. App. 2003)
- Kimball v. Louisville & Nashville R.R. Co., 94 Miss. 396, 48 So. 230 (1909)
- Harrison v. Chandler-Sampson Ins., Inc., 891 So. 2d 224, 234 (Miss. 2005)
- Alexander v. Elzie, 621 So. 2d 909, 910 (Miss. 1992)
- Doe v. Mississippi Blood Services, Inc., 704 So. 2d 1016, 1018-19 (Miss. 1997)
- Womble v. Singing River Hospital, 618 So. 2d 1252, 1266-68 (Miss. 1993)
- Nguyen v. Mississippi Valley Gas Co., 859 So. 2d 971, 978-79 (Miss. 2003)
- Nelson v. Adams USA, Inc., 529 U.S. 460, 467 & n.1 (2000)
- Satchfield v. R.R. Morrison & Son, Inc., 872 So. 2d 661, 663 (Miss. 2004)
- McMillan v. Rodriguez, 823 So. 2d 1173, 1176-77 (Miss. 2002)
- Lewallen v. Slawson, 822 So. 2d 236, 237-38 (Miss. 2002)
- Jenkins v. Ohio Casualty Insurance Co., 794 So. 2d 228, 232 (Miss. 2001)

- Aetna Casualty & Surety Co. v. Berry, 669 So. 2d 56, 70 (Miss. 1996)
- American Legion Ladnier Post No. 42 v. Ocean Springs, 562 So. 2d 103, 106 (Miss. 1990)
- Price v. Purdue Pharma Co., 920 So. 2d 479, 483-84 (Miss. 2006)
- Monsanto Co. v. Hall, 912 So. 2d 134, 136 (Miss. 2005)
- Stuckey v. Provident Bank, 912 So. 2d 859, 864 (Miss. 2005)
- Miller v. Meeks, 762 So. 2d 302, 304 (Miss. 2000)
- Brown v. Credit Center, Inc., 444 So. 2d 358, 362 (Miss. 1983)

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