

SUPREME COURT OF OKLAHOMA

McGee v. Amoco Production Co.

United States v. Satguru Enterprises, Inc., d/b/a 7-Eleven Store #29718, d/b/a 7-Eleven Store #15558, d/b/a 7-Eleven Store #32414, 16 OCAHO no. 1430 (OCAHO 2022) · No. 117511 · Decided February 26, 2019

SUMMARY

The Oklahoma Supreme Court vacated an order denying Amoco Production Company's motion to disqualify opposing counsel. The court held that the trial court was required to provide findings establishing the factual and legal basis for its rulings on alleged conflicts of interest and standing, even though the alleged conflict involved economic interests rather than confidential information. The matter was remanded for further proceedings and a sufficiently supported final order.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Combs, J.; Gurich, C.J.; Kauger, J.; Winchester, J.; Edmondson, J.; Colbert, J.; Reif, J.; Darby, J.
JURISDICTION	Oklahoma
DECIDED	February 26, 2019
DOCKET	117511
DISPOSITION	vacated
PROCEDURAL POSTURE	Amoco sought review by petition in error of the trial court's order denying its motion to disqualify the plaintiffs' counsel. The Oklahoma Supreme Court vacated the order and remanded for findings sufficient to permit meaningful appellate review.
STANDARD OF REVIEW	On review of an order concerning attorney disqualification, factual findings are reviewed for clear error and the application of ethical standards is examined de novo. Meaningful appellate review requires specific factual and legal findings or an adequate record.
PRECEDENTIAL VALUE	Unpublished memorandum opinion applying existing precedent; limited precedential value.
PARTIES	Amoco Production Company v. Ronald W. McGee as Trustee of the Watts Ranch, LLC, Nora Ann Watts Enis, Judy R. Durant, Johnye L. Barnes, The Estate of Clara Joann Smith, The C & J Wilcox Family Trust

TOPICS

appellate procedure civil procedure standing standard of review writ of certiorari

PRACTICE AREAS

civil procedure legal ethics appellate procedure

QUESTIONS PRESENTED

1. Whether an order denying a motion to disqualify counsel must contain specific factual and legal findings or be supported by a record sufficient for meaningful appellate review.
2. Whether the trial court was required to make specific findings concerning Amoco's standing to challenge the alleged conflict of interest.

HOLDINGS

1. A trial court denying a motion to disqualify counsel must submit written findings or create a record setting forth the factual and legal support for its ruling, even when the alleged conflict is based on economic interests rather than possession of confidential information.
2. When denying a motion to disqualify counsel on standing grounds, the trial court must identify the facts and legal support for its determination that the movant does or does not have standing to challenge the alleged conflict.

KEY QUOTATIONS

“The trial court is still required to submit written findings or create a record setting forth its factual and legal support for its ruling when making its decision to deny a motion to disqualify counsel in the same manner it would if it were granting such a motion.” (¶ 2)

“However, this fact makes it no less important for the trial court “to submit written findings or create a record setting forth its factual and legal support for its ruling when making its decision to deny a motion to disqualify counsel.”” (¶ 3)

FACTUAL BACKGROUND

Amoco alleged that the plaintiffs' attorneys had a conflict of interest arising from economic interests among the various clients represented in several actions. The trial court held a hearing but entered an order containing no specific findings explaining the factual or legal basis for denying disqualification. The hearing transcript likewise did not reveal the trial court's findings or the legal support for its ruling.

PROCEDURAL HISTORY

The trial court held a hearing on Amoco's motion to disqualify opposing counsel but entered an order containing only summary conclusions that Amoco lacked standing, had identified no valid grounds for disqualification, and had identified no conflict among the plaintiffs. Amoco petitioned for review, arguing that the order lacked the

specific factual and legal findings required by Oklahoma precedent. The Supreme Court vacated and remanded without deciding the merits of disqualification.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court must prepare a final order identifying the specific facts, if any, supporting the existence or nonexistence of a conflict of interest, the legal support for that determination, and the facts and legal support for whether Amoco has standing to challenge the perceived conflict.

CASES CITED

- Miami Bus. Servs., LLC v. Davis, 2013 OK 20, 299 P.3d 477
- Piette v. Bradley & Leseberg, 1996 OK 124, 930 P.2d 183
- Arkansas Valley State Bank v. Phillips, 2007 OK 78, 171 P.3d 899

OPINION

MCGEE v. AMOCO PRODUCTION CO. 2019 OK 7

PER CURIAM.

MCGEE v. AMOCO PRODUCTION CO. 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: MCGEE v. AMOCO PRODUCTION CO. Previous Case Top Of Index This Point in Index Citationize Next Case Print Only MCGEE v. AMOCO PRODUCTION CO. 2019 OK 7 Case Number: 117511 Decided: 02/26/2019 As Corrected: March 5, 2019 THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2019 OK 7, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. RONALD W. MCGEE as Trustee of the WATTS RANCH, LLC; NORA ANN WATTS ENIS; JUDY R. DURANT; JOHNYE L. BARNES; THE ESTATE OF CLARA JOANN SMITH; and THE C & J WILCOX FAMILY TRUST, Plaintiffs/Appellees, v. AMOCO PRODUCTION COMPANY, Defendant/Appellant, and TERRY J. BARKER, ROBERT LAWRENCE and JOSEPH C. WOLTZ, Additional Non-Party Appellees.

MEMORANDUM OPINION

COMBS, J.: ¶1 On November 6, 2018, the Defendant, Amoco Production Company (Amoco), filed a Petition in Error seeking review of a trial court Order denying Amoco's motion to disqualify Plaintiffs' counsel. On November 19, 2018, this Court placed this case on the fast track docket pursuant to Okla. Sup. Ct. R. 1.17 (III). ¶2 In the Brief in Chief, Amoco asserts the trial court's Order provides only summary holdings and provides no specific findings and conclusions for

denying disqualification as required by *Miami Bus. Servs., LLC v. Davis*, 2013 OK 20, 299 P.3d 477. In *Miami*, the plaintiff moved to disqualify defendant's attorney based on past representation of the plaintiff. The trial court denied the motion. The trial court held a hearing but its order did not contain any findings of fact or conclusions of law; it at least listed the briefs and documents it reviewed to make its decision. *Miami Bus. Servs., LLC*, 2013 OK 20, ¶4. We determined it was essential that the facts relied upon by the trial court appear in a record in order to have meaningful appellate review and a trial court must follow the procedures set forth in *Piette v. Bradley & Leseberg*¹, 1996 OK 124, 930 P.2d 183 and *Arkansas Valley State Bank v. Phillips*², 2007 OK 78, 171 P.3d 899. *Miami Bus. Servs., LLC*, 2013 OK 20, ¶24. We held: Before ruling whether an attorney should be disqualified based on conflict of interest or improper possession of confidential information, it must hold an evidentiary hearing. The trial court must then make a specific factual finding in its order of disqualification or its order denying disqualification that the attorney either had, or did not have, knowledge of material and confidential information. If the ruling is appealed, we will then, when reviewing the order, review the trial court's findings of fact for clear error and carefully examine de novo the trial court's application of ethical standards. *Id.* (emphasis added). We then concluded: The trial court is still required to submit written findings or create a record setting forth its factual and legal support for its ruling when making its decision to deny a motion to disqualify counsel in the same manner it would if it were granting such a motion. Otherwise, a petitioner appealing the denial of a motion to disqualify counsel is denied any substantive basis for their appeal and no meaningful way to challenge the factual and legal findings that serve as the basis for the trial court's ruling. *Id.*, ¶25 (emphasis added). The order denying disqualification of counsel was vacated and the matter was remanded for proceedings consistent with the opinion. *Id.*

¶3 Like *Miami*, a hearing was held in the present case. The Order denying disqualification of counsel made no findings setting forth its factual and legal support for its ruling. The Order merely provides that the defendant "lacks standing to move for disqualification," "has failed to present any valid grounds for disqualification," and "has identified no conflict between the interests of the [various] Plaintiffs." The transcript of the October 31, 2018, hearing, concerning the motion to disqualify counsel, does not contain the trial court's findings or indicate what legal support it will rely upon to make its later ruling. *Miami* and *Arkansas Valley State Bank* both concerned the issue of an attorney having confidential information and therefore the specific findings required in those opinions related to whether an attorney either had, or did not have, knowledge of material and confidential information. The present case concerns allegations the Appellees' attorneys have a conflict of interest between the various clients it represents in several actions. The nature of the alleged conflict of interest is based upon economic interests and not confidential information. However, this fact makes it no less important for the trial court "to submit written findings or create a record setting forth its factual and legal support for its ruling when making its decision to deny a motion to disqualify counsel." *Id.*, ¶25. The purpose as set out in *Miami* is to avoid a situation where the "petitioner appealing the denial of a motion to disqualify counsel is denied any

substantive basis for their appeal and no meaningful way to challenge the factual and legal findings that serve as the basis for the trial court's ruling." Id. ¶4 This Memorandum Opinion is not a ruling on the merits of the Order denying disqualification of counsel, but is intended to maintain compliance with existing precedent. The trial court's Order denying disqualification of counsel is vacated, and this cause is remanded for further proceedings sufficient to prepare a final order which makes findings setting forth the factual and legal support for the trial court's ruling. Specifically, in determining whether there exists grounds for disqualification of counsel, the trial court shall prepare an order which identifies what specific facts, if any, support the court's finding of the existence or non-existence of a conflict of interest and the legal support for such a determination. Additionally, the trial court should identify the facts and legal support for a finding that the Defendant has or does not have standing to challenge any perceived conflict of interest. ¶5 Gurich, C.J., Kauger, Winchester, Edmondson, Colbert, Reif, Combs, Darby, JJ., concur. ¶6 Wyrick, V.C.J., dissents.

FOOTNOTES

1 In *Piette*, this Court issued an order wherein we held: The trial judge's disqualification order is summarily reversed and the cause remanded for an evidentiary hearing. If, after holding a hearing, the trial judge should determine that plaintiff's attorneys should be disqualified, its order of disqualification must include a specific factual finding that attorney Wagner had knowledge of material and confidential information. *Piette*, 1996 OK 124, ¶2. The plaintiff appealed the order disqualifying his attorney. The order was based on a conflict of interest. No other facts concerning this case are mentioned in the order. 2 In *Arkansas Valley State Bank*, a Bank moved to disqualify defendant's counsel based upon its belief he obtained privileged information by a former bank employee. The defendant's counsel, however, had never represented the Bank. The trial court granted the motion. The order was vague, but this Court interpreted it to say the court relied on "the appearance of impropriety" standard, and we held that was not the proper standard. *Arkansas Valley State Bank*, 2007 OK 78, ¶22. Another reason for reversing the order was that the order did not contain specific findings of fact as required by *Piette*. Id., ¶¶ 8, 25. We held: Before the trial court can determine that an attorney should be disqualified based on conflict of interest or improper possession of confidential information, it must hold an evidentiary hearing and make a specific factual finding in its order of disqualification that the attorney had knowledge of material and confidential information. Id., ¶8 (emphasis added). The matter was reversed and remanded to the trial court for new proceedings. Citationizer© Summary of Documents Citing This Document Cite Name Level None Found. Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases CiteNameLevel 2007 OK 78, 171 P.3d 899, ARKANSAS VALLEY STATE BANK v. PHILLIPSDiscussed at Length 1996 OK 124, 930 P.2d 183, 67 OBJ 3566, *Piette* v. Bradley & LesebergDiscussed at Length 2013 OK 20, 299 P.3d 477, MIAMI BUSINESS SERVICES, LLC v. DAVISDiscussed at Length oscn EMAIL: webmaster@oscn.net Oklahoma Judicial Center 2100 N Lincoln Blvd. Oklahoma City, OK 73105 courts Supreme Court of

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