

SUPREME COURT OF MISSISSIPPI

Mann v. Buford

853 So. 2d 1217 (Miss. 2003) · Decided September 11, 2003

SUMMARY

The Mississippi Supreme Court affirmed dismissal of James Arthur Mann’s petition for partition and claim of heirship concerning the estate of William Henry Mann. The court held that Mississippi Code section 91-1-15 barred the claim because James did not seek an adjudication of paternity within the statutory period following William’s death. The court also rejected or found procedurally barred arguments concerning alleged executor de son tort conduct, tolling, and equal protection.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Justice; Pittman, C.J.; Smith, P.J.; Cobb, J.; Easley, J.; Carlson, J.; Graves, J.; McRae, P.J.; Diaz, J.
JURISDICTION	Mississippi
DECIDED	September 11, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	James Arthur Mann took an interlocutory appeal under Mississippi Rule of Appellate Procedure 5 from the chancery court's dismissal of his claim of heirship and complaint for partition.
STANDARD OF REVIEW	Questions of law are reviewed de novo. Factual findings are not disturbed unless the chancellor abused his discretion, was manifestly wrong, clearly erroneous, or applied an erroneous legal standard.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	James Arthur Mann v. Jackie Buford, Jill Mann

TOPICS

- probate procedure
- intestacy
- statutory interpretation
- appellate procedure
- equal protection

PRACTICE AREAS

- probate
- estate administration
- inheritance
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether Mississippi Code section 91-1-15(3)(c) applies to an illegitimate child seeking to inherit from or through a natural father.
2. Whether the limitations period in section 91-1-15(3) barred James's claim of heirship filed more than eighteen years after William's death.
3. Whether Jackie Buford and Jill Mann acted as executrices de son tort and thereby tolled the limitations period through fraudulent concealment.
4. Whether James's equal-protection challenge to section 91-1-15 was preserved for appellate review.

HOLDINGS

1. Section 91-1-15(3)(c) applies both when a natural father inherits from an illegitimate child and when an illegitimate child seeks to inherit from or through the natural father.
2. James's claim of heirship was barred because he filed it more than eighteen years after William's death, outside the period prescribed by section 91-1-15(3)(c).
3. The alleged conveyances of estate property did not toll the limitations period because James did not establish fraudulent concealment that prevented him from learning of his possible heirship claim.
4. The equal-protection challenge was procedurally barred because James did not present it to the chancellor.

KEY QUOTATIONS

“The clear language of § 91-1-15(3), however, establishes that it is applicable to both the natural father inheriting from an illegitimate, as well as to an illegitimate child inheriting from or through the father.”
(1220)

“Alleged wrongful conveyances of estate property did nothing to keep James from filing such a claim.” (1221)

FACTUAL BACKGROUND

James Arthur Mann was born in 1939, and his birth certificate named William Henry Mann as his father, although William did not sign the certificate. William died intestate on September 30, 1981, leaving property to or for his two adopted daughters, Jackie Buford and Jill Mann. James did not seek an adjudication of heirship until January 31, 2000, more than eighteen years after William's death, and he alleged that the daughters' conveyances of estate property should toll the statutory period.

PROCEDURAL HISTORY

William Henry Mann died intestate in 1981. In 2000, more than eighteen years after William's death, James filed a petition to open the estate, sought appointment as administrator, and later filed claims for an accounting, heirship, and partition against William's adopted daughters. The chancellor removed James as administrator, closed the estate, and dismissed his heirship and partition claims as barred by Mississippi Code section 91-1-15. The Mississippi Supreme Court allowed an interlocutory appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Morgan v. West, 812 So. 2d 987, 990 (Miss. 2002)
- Bank of Miss. v. Hollingsworth, 609 So. 2d 422, 424 (Miss. 1992)
- Harrison County v. City of Gulfport, 557 So. 2d 780, 784 (Miss. 1990)
- Cummings v. Benderman, 681 So. 2d 97, 100 (Miss. 1996)
- Leflore ex rel. Primer v. Coleman, 521 So. 2d 863, 868 (Miss. 1988)
- In re Estate of Davidson, 794 So. 2d 261, 265 (Miss. Ct. App. 2001)
- Johnson v. Harris, 705 So. 2d 819, 822 (Miss. 1996)
- Hardy v. Thomas, 23 Miss. 544 (1852)
- Robinson v. Cobb, 763 So. 2d 883, 887 (Miss. 2000)

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