

SUPREME COURT OF MISSISSIPPI

Dare v. Stokes

62 So. 3d 958 (Miss. 2011) · Decided May 26, 2011

SUMMARY

The Mississippi Supreme Court affirmed the denial of Dr. Daniel Dare’s motion to intervene in proceedings concerning modification of a property-settlement agreement incorporated into Paul and Sharon Stokes’s divorce judgment. The court held that Dare lacked a legally protected interest in the divorce and that the narrow exception allowing third-party intervention in divorce proceedings did not apply.

CASE DETAILS

|                       |                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Mississippi                                                                                                                                            |
| WRITING FOR THE COURT | Randolph, Justice; Waller, C.J.; Carlson, P.J.; Dickinson, P.J.; Lamar, J.; Chandler, J.; Pierce, J.; King, J.; Kitchens, J.                                            |
| JURISDICTION          | Mississippi                                                                                                                                                             |
| DECIDED               | May 26, 2011                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                |
| PROCEDURAL POSTURE    | Appeal from the denial of a motion to intervene in proceedings concerning modification of a marital property-settlement agreement incorporated into a divorce judgment. |
| STANDARD OF REVIEW    | Denial of intervention of right is reviewed de novo. Denial of permissive intervention is reviewed for abuse of discretion.                                             |
| PRECEDENTIAL VALUE    | Published opinion; precedential Mississippi Supreme Court decision.                                                                                                     |
| PARTIES               | Dr. Daniel Dare v. Paul Stokes, Sharon Stokes                                                                                                                           |

TOPICS

- family law procedure
- divorce
- intervention
- joinder
- civil procedure

PRACTICE AREAS

- family law
- civil procedure

QUESTIONS PRESENTED

1. Whether Dare had a legally protected interest sufficient to permit intervention of right in the Stokeses' divorce-related proceeding.
2. Whether the limited exception permitting third-party intervention in divorce proceedings applied to Dare's circumstances.

## HOLDINGS

1. Dare could not intervene because he had no legally protected interest in the Stokeses' divorce or their property-settlement agreement.
2. The narrow exception allowing third-party intervention in a divorce proceeding did not apply to Dare; third-party intervention remains generally prohibited absent a statute or the most unique circumstances.

## KEY QUOTATIONS

*“Under Mississippi Rule of Civil Procedure 24, a putative intervenor must:”* (62 So. 3d at 959-60)

*“In the eighty-two years since this rule was announced, the lone exception to that general rule is found in Cohen, a post-Rules decision which involved a “specific set of rare, unusual facts.””* (62 So. 3d at 960)

*“The circumstances that will warrant an exception to the general rule that third parties cannot intervene in divorce proceedings must be limited to the most unique circumstances.”* (62 So. 3d at 960-61)

## FACTUAL BACKGROUND

Paul and Sharon Stokes were married and later pursued a divorce based on irreconcilable differences. Their divorce judgment incorporated a property-settlement agreement containing a covenant by Paul not to sue Sharon or any other person regarding matters relating to dissolution of the marriage, including alienation of affection. The chancery court modified that covenant by deleting the words "or any other person," after which Paul indicated that he intended to sue Dare for alienation of affection. Dare, who was not named in the divorce pleadings or settlement agreement, sought to intervene.

## PROCEDURAL HISTORY

Paul and Sharon Stokes obtained a divorce judgment incorporating their property-settlement agreement. The chancery court later modified the agreement by removing a covenant barring Paul from suing third parties for alienation of affection. After Dare learned that Paul intended to sue him, Dare moved to intervene in the divorce-related proceeding. The Warren County Chancery Court denied intervention, and Dare appealed.

## DISPOSITION

affirmed

## CASES CITED

- Madison HMA, Inc. v. St. Dominic-Jackson Mem'l Hosp., 35 So. 3d 1209, 1215 (Miss. 2010)
- Cohen v. Cohen, 748 So. 2d 91, 93-96 (Miss. 1999)

- Perry County v. Ferguson, 618 So. 2d 1270, 1271 (Miss. 1993)
- Guar. Nat'l Ins. Co. v. Pittman, 501 So. 2d 377, 381 (Miss. 1987)
- Hulett v. Hulett, 152 Miss. 476, 119 So. 581, 585 (1928)

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