

SUPREME COURT OF SOUTH CAROLINA

Mims v. Babcock Center, Inc., 399 S.C. 341

731 S.E.2d 437 (2012) · Decided August 15, 2012

SUMMARY

The South Carolina Supreme Court reversed the dismissal of a complaint alleging that an adult with severe disabilities was injured and mistreated while under the defendants' care. The court held that South Carolina Code section 15-3-20(B) and Rule 3(a), SCRPC, do not require service within 120 days of filing when service occurs within the statute of limitations. The court also held that an amended complaint could be filed without leave before a responsive pleading was served and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Beatty; Chief Justice Toal; Justice Hearn; Justice Kittredge; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	August 15, 2012
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff appealed the circuit court's dismissal, without prejudice, of her complaint alleging injuries and mistreatment of her disabled adult son. The dismissal was based principally on alleged untimely service and related jurisdictional, pleading, and failure-to-prosecute grounds.
STANDARD OF REVIEW	The opinion does not expressly state a distinct standard of review; it reviewed the circuit court's legal conclusions concerning commencement, service, amendment, and jurisdiction.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential.
PARTIES	Margaret Mims, as guardian ad litem for Edward Mims v. Babcock Center, Inc., Judy Johnson, South Carolina Department of Disabilities and Special Needs, Kathi Lacy, Stanley Butkus

TOPICS

service of process

statutory interpretation

civil procedure

motions to dismiss

subject matter jurisdiction

PRACTICE AREAS

civil procedure

statutory interpretation

disability law

guardianship procedure

QUESTIONS PRESENTED

1. Whether S.C. Code section 15-3-20(B) and Rule 3(a), SCRCP, require service within 120 days of filing in every case.
2. Whether the amended complaint was a legal nullity because the original complaint had not been served.
3. Whether the alleged service defect deprived the circuit court of subject matter or personal jurisdiction.
4. Whether the action was properly dismissed for failure to prosecute under Rule 41(b), SCRCP.

HOLDINGS

1. Section 15-3-20(B) and Rule 3(a), read together, do not require actual service within 120 days of filing in all cases. An action is commenced upon filing if service is made within the statute of limitations; if filing occurs within the limitations period but service occurs after that period, service must be accomplished within 120 days after filing.
2. Rule 15(a), SCRCP, permits a party to file and serve one amended pleading without leave of court before a responsive pleading is served, even when the original complaint has not been served.
3. The alleged failure of proper service did not deprive the circuit court of subject matter jurisdiction, and the circuit court's jurisdictional dismissal findings were erroneous insofar as they rested on the mistaken service analysis.
4. The Rule 41(b) dismissal could not stand because it was premised on the trial court's erroneous conclusion concerning service and commencement of the action.

KEY QUOTATIONS

“The statute and the rule, read together, provide that (1) an action is commenced upon filing the summons and complaint, if service is made within the statute of limitations, and (2) if filing but not service is accomplished within the statute of limitations, then service must be made within 120 days of filing.” (399 S.C. at 346-47)

“Rule 15(a), SCRCP does allow the filing and service of an amended complaint without leave of court, even if the original complaint has not been served, because a party may amend her pleadings once without leave of court before a responsive pleading is served” (399 S.C. at 347)

FACTUAL BACKGROUND

Edward Mims, an adult with severe mental and physical disabilities, allegedly suffered physical injuries and mistreatment, including sexual assault, while under the care of the Babcock Center and the South Carolina Department of Disabilities and Special Needs. Margaret Mims filed suit as his guardian ad litem in May 2007, but the original complaint was never served. She filed and served an amended complaint in May 2008, before any defendant had served a responsive pleading.

PROCEDURAL HISTORY

Mims filed an original summons and complaint in May 2007 but did not serve it. In May 2008, before any responsive pleading had been served, she filed and served an amended complaint under the original case number. The circuit court initially denied defendants' motions to dismiss but later granted motions to alter or amend and dismissed the action under S.C. Code section 15-3-20(B), Rules 12(b)(1), (2), (4), and (5), and Rule 41(b). The Supreme Court of South Carolina reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion.

CASES CITED

- Skinner v. Westinghouse Elec. Corp., 380 S.C. 91, 93, 668 S.E.2d 795, 796 (2008)
- Dove v. Gold Kist, Inc., 314 S.C. 235, 237-38, 442 S.E.2d 598, 600 (1994)