

SUPREME COURT OF MISSISSIPPI

Constrilla Washington Wilson v. General Motors Acceptance Corporation and American Lenders Service Company of Jackson, Mississippi, Inc.

883 So. 2d 56 (Miss. 2004) · No. 2003-CA-00233-SCT · Decided July 29, 2004

SUMMARY

The Mississippi Supreme Court reviewed a consolidated action involving the repossession of a vehicle financed by General Motors Acceptance Corporation and performed by American Lenders Service Company. The court affirmed the trial court’s grant of judgment notwithstanding the verdict, concluding that the plaintiff presented insufficient evidence to support damages for emotional distress, tortious breach of contract, conversion, or breach of the peace. The court also upheld denial of the plaintiff’s motion to alter or amend the judgment.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Easley, Justice; Smith, C.J.; Easley, J.; Randolph, J.
JURISDICTION	Mississippi
DECIDED	July 29, 2004
DOCKET	2003-CA-00233-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wilson appealed from the Claiborne County Circuit Court's orders granting judgment notwithstanding the verdict in favor of GMAC and American Lenders, denying her motion to alter or amend the judgment, and declining to submit punitive damages to the jury.
STANDARD OF REVIEW	JNOV is reviewed de novo. The court tests the legal sufficiency of the evidence, considers the evidence in the light most favorable to the nonmoving party, and gives that party the benefit of all favorable inferences. JNOV is proper when the evidence overwhelmingly favors the movant so that reasonable jurors could not reach a contrary verdict, or when the plaintiff fails to establish a prima facie case.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.

PARTIES

Constrilla Washington Wilson v. General Motors Acceptance Corporation, American Lenders Service Company of Jackson, Mississippi, Inc.

TOPICS

breach of contract

conversion

civil procedure

damages

punitive damages

PRACTICE AREAS

Contracts

Torts

Consumer protection

Civil procedure

Remedies

QUESTIONS PRESENTED

1. Whether the trial court properly granted JNOV for GMAC on Wilson's claims for emotional-distress damages, tortious breach of contract, and conversion.
2. Whether the trial court properly granted JNOV for American Lenders on the alleged breach-of-peace and emotional-distress claims.
3. Whether the trial court erred in denying Wilson's motion to alter or amend the judgment after reducing the GMAC jury verdict to \$75,000.
4. Whether the trial court erred by failing to submit punitive damages to the jury.

HOLDINGS

1. A plaintiff may not recover emotional-distress damages resulting from ordinary negligence without proving some physical manifestation of injury or demonstrable physical harm; Wilson's testimony that she lost sleep, was upset, and had nightmares was insufficient.
2. Emotional-distress damages may be recovered without physical injury when the defendant's conduct is outrageous or evokes outrage or revulsion, but the repossession conduct here did not meet that standard.
3. Wilson was not entitled to recover contract damages because the refund of her extension payment placed her in the position she occupied before the alleged breach, and contract damages may not place an injured party in a better position than performance would have.
4. Wilson could not recover for conversion because the evidence established that she waived or abandoned her claim to the Mustang and did not prove wrongful possession or dominion inconsistent with her ownership rights.
5. The repossession did not constitute a breach of the peace because American Lenders repossessed the Mustang without force, violence, physical altercation, surprise tactics, or specific threats.
6. Wilson waived the punitive-damages issue by failing to timely request a punitive-damages phase or otherwise object while the jury remained empaneled.

KEY QUOTATIONS

“a plaintiff therefore may not recover emotional distress damages resulting from ordinary negligence without proving some sort of physical manifestation of injury or demonstrable physical harm.” (65)

“Thus, there is a conversion only when there is an “intent to exercise dominion or control over goods which is inconsistent with the true owner’s right.”” (69)

“simply going upon the private driveway of a debtor and taking possession of secured collateral, without more, does not constitute “breach of the peace”” (70)

FACTUAL BACKGROUND

James E. Wilson purchased and financed a 1995 Ford Mustang through GMAC before marrying Constrilla Washington Wilson; only James's name appeared on the purchase and financing documents. After James died, his sister and mother contacted GMAC to request repossession, and GMAC authorized American Lenders to repossess the vehicle. Wilson had obtained an extension on the account, but after the repossession she told GMAC and her attorney that GMAC could keep the vehicle, requested and cashed a refund of the extension payment, and did not redeem the Mustang after receiving notice that it would be sold. The repossession occurred at Wilson's home without physical altercation, force, or specific threats, and Wilson had purchased a less expensive Saturn shortly before the repossession.

PROCEDURAL HISTORY

Wilson sued GMAC for wrongful repossession, conversion, and tortious breach of contract. After removal and remand to state court, she separately sued American Lenders, the repossession company, and the actions were consolidated. A jury returned verdicts totaling \$2.5 million against GMAC and \$1 million against American Lenders. The trial court reduced the GMAC verdict to \$75,000 based on Wilson's jurisdictional affidavit, then granted both defendants' motions for JNOV and set aside the judgments. The Supreme Court of Mississippi affirmed.

DISPOSITION

affirmed

CASES CITED

- *Tharp v. Bunge Corp.*, 641 So. 2d 20, 23 (Miss. 1994)
- *Corley v. Evans*, 835 So. 2d 30, 36-37 (Miss. 2003)
- *Goodwin v. Derryberry Co.*, 553 So. 2d 40, 42 (Miss. 1989)
- *Steele v. Inn of Vicksburg, Inc.*, 697 So. 2d 373, 376 (Miss. 1997)
- *Bankston v. Pass Road Tire Ctr., Inc.*, 611 So. 2d 998, 1001, 1003 (Miss. 1992)
- *McMillan v. King*, 557 So. 2d 519, 522 (Miss. 1990)
- *Northern Elec. Co. v. Phillips*, 660 So. 2d 1278, 1281 (Miss. 1995)
- *Morrison v. Means*, 680 So. 2d 803, 805-07 (Miss. 1996)
- *Leaf River Forest Prods., Inc. v. Ferguson*, 662 So. 2d 648, 659 (Miss. 1995)

- *Sears, Roebuck & Co. v. Devers*, 405 So. 2d 898, 902 (Miss. 1981)
- *Adams v. U.S. Homecrafters, Inc.*, 744 So. 2d 736, 743-44 (Miss. 1999)
- *American Bankers' Ins. Co. of Fla. v. Wells*, 819 So. 2d 1196, 1208-09 (Miss. 2001)
- *Mississippi Valley Gas Co. v. Estate of Walker*, 725 So. 2d 139, 148 (Miss. 1998)
- *Southwest Miss. Reg'l Med. Ctr. v. Lawrence*, 684 So. 2d 1257, 1269 (Miss. 1996)
- *Universal Life Ins. Co. v. Veasley*, 610 So. 2d 290, 295 (Miss. 1992)
- *Strickland v. Rossini*, 589 So. 2d 1268, 1275-76 (Miss. 1991)
- *Gamble v. Dollar General Corp.*, 852 So. 2d 5, 11 (Miss. 2003)
- *Theobald v. Nossner*, 752 So. 2d 1036, 1042 (Miss. 1999)
- *Polk v. Sexton*, 613 So. 2d 841, 844 (Miss. 1993)
- *Southern Natural Gas Co. v. Fritz*, 523 So. 2d 12, 19-20 (Miss. 1987)
- *McDaniel Bros. Const. Co. v. Jordy*, 195 So. 2d 922, 925 (Miss. 1967)
- *A & F Properties, LLC v. Lake Caroline, Inc.*, 775 So. 2d 1276, 1281 (Miss. Ct. App. 2000)
- *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938)
- *Smith v. Franklin Custodian Funds, Inc.*, 726 So. 2d 144, 149 (Miss. 1998)
- *Mississippi Motor Fin., Inc. v. Thomas*, 246 Miss. 14, 149 So. 2d 20, 20 (1963)
- *First Investors Corp. v. Rayner*, 738 So. 2d 228, 234-35 (Miss. 1999)
- *Bender v. North Meridian Mobile Home Park*, 636 So. 2d 385, 390 (Miss. 1994)
- *Hester v. Bandy*, 627 So. 2d 833, 835, 840-41 (Miss. 1993)
- *McComb Equipment Co., Inc. v. Cooper*, 370 So. 2d 1367 (Miss. 1979)
- *Johnston v. Stinson*, 418 So. 2d 805 (Miss. 1982)
- *Commercial Credit Co. v. Spence*, 185 Miss. 293, 184 So. 439, 441 (1938)
- *Dearman v. Williams*, 235 Miss. 360, 109 So. 2d 316, 320-21 (1959)
- *Commercial Credit Co. v. Cain*, 190 Miss. 866, 1 So. 2d 776, 777 (1941)
- *Frierson v. Delta Outdoor, Inc.*, 794 So. 2d 220, 223 (Miss. 2001)
- *Brown v. North Jackson Nissan, Inc.*, 856 So. 2d 692, 695-97 (Miss. Ct. App. 2003)
- *Mitchell v. Glimm*, 819 So. 2d 548, 552 (Miss. Ct. App. 2002)
- *Gatlin v. State*, 724 So. 2d 359, 369 (Miss. 1998)