

SUPREME COURT OF MISSISSIPPI

Southern v. Mississippi State Hosp.

853 So. 2d 1212 (Miss. 2003) · No. No. 2002-CP-01298-SCT · Decided September 11, 2003

SUMMARY

The Supreme Court of Mississippi affirmed dismissal of Willie B. Southern Jr.'s claims against Mississippi State Hospital and two physicians arising from his court-ordered commitment. The court held that the claims were barred by the Mississippi Tort Claims Act's one-year limitations period and that Southern had not complied with the statutory notice-of-claim requirements.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Easley, Justice; McRae, P.J.; Easley, J.; Graves, J.; Pittman, C.J.; Smith, P.J.; Waller, J.; Cobb, J.; Carlson, J.
JURISDICTION	Mississippi
DECIDED	September 11, 2003
DOCKET	No. 2002-CP-01298-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Rankin County Circuit Court dismissing Southern's complaint against the Mississippi State Hospital and two physicians as time barred under the Mississippi Tort Claims Act.
STANDARD OF REVIEW	De novo review of the trial court's dismissal for failure to state a claim and application of the statute of limitations; appellate review is limited to issues presented to the trial court.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	Willie B. Southern, Jr. v. Mississippi State Hospital, Paul Jackson, M.D., Martha Murray, M.D.

TOPICS

- statute of limitations
- motions to dismiss
- affirmative defenses
- preservation of error
- appellate procedure

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Torts
- Governmental immunity
- Health law

QUESTIONS PRESENTED

1. Whether Southern's complaint was barred by the Mississippi Tort Claims Act's one-year statute of limitations.
2. Whether constitutional claims raised for the first time on appeal could be considered.
3. Whether the circuit court properly dismissed the complaint.

HOLDINGS

1. Claims subject to the Mississippi Tort Claims Act must be commenced within one year after the date of the tortious, wrongful, or otherwise actionable conduct, subject to the statutory tolling provisions for a properly served notice of claim. Southern's complaint, filed approximately two and a half years after his discharge and the alleged conduct, was time barred.
2. Issues, including constitutional questions, that were not presented to the trial court will not be reviewed for the first time on appeal.

KEY QUOTATIONS

"The limitations period provided herein shall control and shall be exclusive in all actions subject to and brought under the provisions of this chapter, notwithstanding the nature of the claim, the label or other characterization the claimant may use to describe it, or the provisions of any other statute of limitations which would otherwise govern the type of claim or legal theory if it were not subject to or brought under the provisions of this chapter." (853 So. 2d at 1216-17)

FACTUAL BACKGROUND

Southern was involuntarily committed to Mississippi State Hospital pursuant to an order of the Hinds County Chancery Court in April 1999 and was discharged on December 10, 1999. In June 2002, he sued the hospital and two staff physicians over the commitment and alleged diagnosis, asserting tort claims and seeking substantial damages.

PROCEDURAL HISTORY

Southern filed suit in the Circuit Court of Rankin County alleging claims including medical malpractice, defamation, intentional infliction of emotional distress, mental anguish, loss of business, and loss of enjoyment of life arising from his court-ordered commitment. The defendants moved to dismiss under Mississippi Rule of Civil Procedure 12(b)(6), asserting governmental immunity and limitations defenses. The circuit court dismissed the complaint, and the Supreme Court of Mississippi affirmed, concluding that the claims were subject to the Mississippi Tort Claims Act's one-year limitations period and that Southern had filed approximately two and a half years after the alleged conduct.

DISPOSITION

affirmed

CASES CITED

- Mallery v. Taylor, 805 So. 2d 613 (Miss. Ct. App. 2002)
- King v. Miss. Power & Light, 244 Miss. 486, 142 So. 2d 222, 225 (1962)
- McLemore v. McLemore, 163 So. 500 (Miss. 1935)
- Bender v. North Meridian Mobile Home Park, 636 So. 2d 385, 389 (Miss. 1994)
- Patterson v. State, 594 So. 2d 606, 609 (Miss. 1992)
- Mills v. Nichols, 467 So. 2d 924, 931 (Miss. 1985)
- Parker v. Mississippi Game and Fish Commission, 555 So. 2d 725, 730 (Miss. 1989)
- Pickens v. Donaldson, M.D., 748 So. 2d 684, 687 (Miss. 1999)
- City of Tupelo v. Martin, 747 So. 2d 822, 826 (Miss. 1999)

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