

SUPREME COURT OF ALABAMA

Ex parte Austal USA, LLC

233 So. 3d 975 (Ala. 2017) · No. 1151138; 1151244 · Decided March 3, 2017

SUMMARY

The Alabama Supreme Court denied two petitions for a writ of mandamus filed by Austal USA, LLC, seeking dismissal of employees' intentional-misconduct and related tort claims. The court held that, at the motion-to-dismiss stage, the employees' allegations that Austal specifically intended to injure them had to be accepted as true and could potentially invoke the narrow exception to the Longshore & Harbor Workers' Compensation Act's exclusivity provision. The court concluded that Austal had not shown a clear legal right to dismissal and allowed limited discovery concerning the applicability of the exclusivity defense.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Main, Justice; Stuart; Bolin; Parker; Murdock; Wise; Bryan; Shaw
JURISDICTION	Alabama
DECIDED	March 3, 2017
DOCKET	1151138; 1151244
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Austal petitioned for permission to appeal or, alternatively, writs of mandamus from orders denying its Rule 12(b)(6) motions to dismiss claims asserted by the plaintiffs. The Supreme Court of Alabama consolidated the petitions and treated them as petitions for writs of mandamus.
STANDARD OF REVIEW	Mandamus is available only when the petitioner has a clear legal right to the requested order, the respondent has an imperative duty to perform accompanied by refusal, no other adequate remedy exists, and the court's jurisdiction is properly invoked. Although denial of a motion to dismiss ordinarily is not reviewable by mandamus because appeal provides an adequate remedy, an exception exists for an immunity defense based on workers' compensation exclusivity. Review of the Rule 12(b)(6) ruling is without a presumption of correctness; the complaint's allegations are accepted as true, doubts are resolved in favor of the plaintiff, and the question is whether the

	plaintiff may possibly prevail rather than whether the plaintiff will ultimately prevail.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Austal USA, LLC v. Michael Keshock, Martin Osborn, Richard Fitzgerald, Tyrone Lucas, Riley Bodiford, Tommie Brandon, Justin Reed, William White

TOPICS

motions to dismiss

writ of certiorari

appellate procedure

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PRACTICE AREAS

civil procedure

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workers compensation

torts

QUESTIONS PRESENTED

1. Whether the Supreme Court of Alabama could review by writ of mandamus the denial of Austal's Rule 12(b)(6) motions asserting immunity under the exclusivity provision of the Longshore and Harbor Workers' Compensation Act.
2. Whether the plaintiffs' allegations of specific intent to injure were sufficient at the motion-to-dismiss stage to avoid dismissal under the LHWCA's exclusivity provision.
3. Whether Austal had demonstrated a clear legal right to dismissal before discovery concerning the alleged intent to injure.

HOLDINGS

1. Mandamus review is available under the narrow exception for a motion to dismiss asserting an immunity defense based on workers' compensation exclusivity, including LHWCA exclusivity.
2. The LHWCA generally provides an employer's exclusive immunity from tort claims for work-related injuries, but an exceedingly narrow exception exists where the employer specifically intended or desired that the injury occur.
3. The plaintiffs' express allegations that Austal consciously and deliberately intended to injure them were sufficient to withstand Rule 12(b)(6) dismissal at that stage, even if the allegations appeared implausible or conclusory.

KEY QUOTATIONS

“In this case, regardless of our view on the likelihood of the plaintiffs’ ultimate ability to establish the truth of the intent-to-injure allegations, or even to survive the summary-judgment stage, we cannot deny that there is at least some possibility that those allegations are true.” (981)

“Accordingly, the plaintiffs are entitled to at least limited discovery on the issue whether their claims are subject to the exclusivity provision of the LHWCA.” (981)

FACTUAL BACKGROUND

Austal operates a Mobile shipyard building naval vessels. The plaintiffs, Austal employees engaged in maritime employment, alleged that they were injured while using Miller saws in the course of their work. Their amended complaints alleged that Austal knowingly supplied a dangerous tool and specifically or deliberately intended to injure them, while also alleging business-related motives for continuing to use the tool.

PROCEDURAL HISTORY

The plaintiffs sued Austal and three other companies after allegedly suffering workplace injuries involving Miller saws. The Mobile Circuit Court dismissed the tort-of-outrage claim with prejudice but denied Austal's motions to dismiss claims for intentional misconduct, assault and battery, fraud, fraudulent suppression, and intentional infliction of emotional distress based on workers' compensation exclusivity. The trial court certified the orders for immediate or permissive appeal, and Austal filed two petitions. The Supreme Court denied both petitions, concluding that Austal had not shown a clear legal right to dismissal and that the plaintiffs were entitled to limited discovery concerning the LHWCA exclusivity issue.

DISPOSITION

writ_denied

CASES CITED

- Ex parte United Serv. Stations, Inc., 628 So. 2d 501 (Ala. 1993)
- Ex parte Ziglar, 669 So. 2d 133 (Ala. 1995)
- Ex parte Carter, 807 So. 2d 534, 536 (Ala. 2001)
- Ex parte McWilliams, 812 So. 2d 318, 321 (Ala. 2001)
- Ex parte Liberty Nat'l Life Ins. Co., 825 So. 2d 758, 761-62 (Ala. 2002)
- Ex parte Kohlberg Kravis Roberts & Co., 78 So. 3d 959, 965-66 (Ala. 2011)
- Ex parte MERSCORP, Inc., 141 So. 3d 984, 990 (Ala. 2013)
- Ex parte Rock Wool Mfg. Co., 202 So. 3d 669, 671-72 (Ala. 2016)
- Ex parte McCartney Constr. Co., 720 So. 2d 910 (Ala. 1998)
- Drummond Co. v. Alabama Dep't of Transp., 937 So. 2d 56, 57-58 (Ala. 2006)
- Ex parte Haralson, 853 So. 2d 928, 931 (Ala. 2003)
- Newman v. Savas, 878 So. 2d 1147, 1148-49 (Ala. 2003)
- Nance v. Matthews, 622 So. 2d 297, 299 (Ala. 1993)
- Creola Land Dev., Inc. v. Bentbrooke Housing, L.L.C., 828 So. 2d 285, 288 (Ala. 2002)
- Ex parte Alabama Dep't of Transp., 978 So. 2d 17, 21 (Ala. 2007)
- Rodriguez-Flores v. U.S. Coatings, Inc., 133 So. 3d 874, 880-82 (Ala. 2013)
- International Paper Co. v. Murray, 490 So. 2d 1234 (Ala. Civ. App. 1985), aff'd in part, rev'd in part on other grounds, Ex parte Murray, 490 So. 2d 1238 (Ala. 1986)
- Ex parte Murray, 490 So. 2d 1238 (Ala. 1986)

- Jarrell v. Bender Shipbuilding & Repair Co., 681 So. 2d 1092, 1094 (Ala. Civ. App. 1996)
- Fisher v. Halliburton, 667 F.3d 602, 618 (5th Cir. 2012)
- Sample v. Johnson, 771 F.2d 1335, 1346 (9th Cir. 1985)
- Roy v. Bethlehem Steel Corp., 838 F. Supp. 312, 316 (E.D. Tex. 1993)
- Houston v. Bechtel Assocs. Prof'l Corp., D.C., 522 F. Supp. 1094, 1096 (D.D.C. 1981)
- Austin v. Johns-Manville Sales Corp., 508 F. Supp. 313, 316 (D. Me. 1981)
- Sharp v. Elkins, 616 F. Supp. 1561 (W.D. La. 1985)
- Rustin v. District of Columbia, 491 A.2d 496, 501 (D.C. 1985)
- Sun Ship, Inc. v. Pennsylvania, 447 U.S. 715 (1980)
- Ex parte Alabama Dep't of Mental Health & Retardation, 837 So. 2d 808, 813-14 (Ala. 2002)

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