

SUPREME COURT OF MISSISSIPPI

Griffin v. Lower

37 Miss. 458 (1859) · Decided October 15, 1859

SUMMARY

The Mississippi Supreme Court held that a defendant was improperly permitted to testify regarding a promissory obligation involving a deceased person’s estate, because the statutory witness-competency proviso barred testimony establishing or discharging a claim exceeding fifty dollars. The court also held that the trial court erred by directing a general defense verdict if the jury found less than fifty dollars due, because the statute required additional findings concerning jurisdictional amount and intentional evasion. The judgment was reversed and the cause remanded for a venire de novo.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Harris, J.
JURISDICTION	Mississippi
DECIDED	October 15, 1859
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff in error appealed after the circuit court permitted the defendant to testify concerning the deceased person's estate, instructed the jury to find generally for the defendant if less than fifty dollars was due, denied a motion for new trial, and entered judgment on the verdict.
STANDARD OF REVIEW	The Supreme Court reviewed the alleged evidentiary and instructional errors for legal error.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	Griffin v. Lower

TOPICS

- evidence
- statutory interpretation
- civil procedure
- probate procedure
- estate litigation

PRACTICE AREAS

- evidence
- civil procedure
- probate

QUESTIONS PRESENTED

1. Whether a defendant may testify in a circuit-court action brought by the representative of a deceased person's estate to establish payment, failure of consideration, usury, or other defenses concerning a claim exceeding fifty dollars.
2. Whether the circuit court may direct a general verdict for the defendant merely because the jury finds that less than fifty dollars is due when the action was brought for fifty-four dollars, absent a finding that the larger amount was demanded to evade the jurisdictional statute.

HOLDINGS

1. Under the proviso to article 190, section 17 of the Mississippi Code, a party defendant may not testify in a suit brought against himself by the representative of a decedent's estate when the testimony is offered to establish his own claim or defense, such as payment, failure of consideration, or usury, in an amount exceeding fifty dollars.
2. When an action is brought in circuit court for more than fifty dollars but the evidence shows that a lesser amount is due, the plaintiff is not subject to a general nonsuit or defense verdict unless the jury also finds that the greater amount was demanded for the purpose of evading the statute requiring smaller claims to be brought before a justice of the peace.

KEY QUOTATIONS

“The object of the proviso to article 190, p. 510 of Code, was to protect the estate of deceased persons against the operation of that article ; and, at the same time, to make no change in article 18, p. 408, in relation to the powers or rights thereby conferred in justices’ courts” (460)

“The only remaining ground upon which the court was authorized to instruct, as in case of non-suit, was, if a greater sum was demanded than was due, on purpose to evade the law, it was the province of the jury to ascertain the existence of this fact; and without it, they were bound to return their verdict for whatever sum they found to be due the plaintiff.” (461)

FACTUAL BACKGROUND

Griffin, acting as administrator, sued on a fifty-four-dollar writing obligatory executed to him and arising from a transaction involving ninety bushels of corn sold by the decedent to Province, the defendant's co-maker. The defendant testified that the writing represented the corn debt and included an additional ten percent for extending the time of payment. The circuit court admitted the testimony and instructed the jury to find generally for the defendant if it found that less than fifty dollars was due, resulting in a verdict for the defendant.

PROCEDURAL HISTORY

Griffin sued in the Circuit Court of Panola County to recover fifty-four dollars on a writing obligatory executed to him as administrator of a decedent's estate. The defendant asserted payment, usury, and want of consideration, testified regarding the underlying corn transaction, and obtained a verdict for one cent damages. After the circuit court denied Griffin's motion for a new trial, Griffin brought the case to the Mississippi Supreme Court by writ of error.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment was reversed, the cause remanded, and a venire de novo awarded.

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