

SUPREME COURT OF ALABAMA

Gwin v. Nationwide Life Insurance Co.

45 So. 3d 751 (Ala. 2010) · No. 1081462; companion mandamus petition no. 1081436 · Decided March 12, 2010

SUMMARY

The Alabama Supreme Court held that the proper method for a nonparty state agency to obtain appellate review of an order enjoining its issuance of administrative subpoenas was an appeal, not a petition for a writ of mandamus. The court dismissed the mandamus petition and reversed the injunction, concluding that the trial court lacked jurisdiction to restrict the actions of the Alabama State Personnel Board because the Board had not become a party to the underlying litigation.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Justice Lyons; Chief Justice Cobb; Justice Woodall; Justice Stuart; Justice Bolin; Justice Parker; Justice Murdock; Justice Shaw
JURISDICTION	Alabama
DECIDED	March 12, 2010
DOCKET	1081462; companion mandamus petition no. 1081436
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Alabama State Personnel Board sought appellate review of a Jefferson Circuit Court order enjoining it from issuing administrative subpoenas relating to litigation involving a deferred-compensation plan. The Board filed both a petition for a writ of mandamus and a notice of appeal.
STANDARD OF REVIEW	The court determined the proper method of appellate review and reviewed the trial court's authority and jurisdiction to enjoin a nonparty State agency.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion
PARTIES	State Personnel Board, State of Alabama v. PEBCO, Inc., Nationwide Life Insurance Company, Nationwide Retirement Solutions, Inc., Alabama State Employees Association

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QUESTIONS PRESENTED

1. Whether a nonparty subjected to an injunction should seek review by appeal or by petition for a writ of mandamus.
2. Whether the Jefferson Circuit Court had authority or jurisdiction to enjoin the State Personnel Board, which had never become a party to the litigation, from issuing administrative subpoenas.
3. Whether the Board's statutory authority to issue investigative subpoenas could be determined in the Gwin litigation.

HOLDINGS

1. When a trial court enjoins the activity of a nonparty, the proper means of appellate review is an appeal rather than a petition for a writ of mandamus.
2. The trial court lacked authority or jurisdiction to restrict the State Personnel Board's actions through the discovery process because the Board was never made a party to the litigation.
3. The court did not decide whether the Board was acting within its statutory authority in issuing the subpoenas because the Gwin litigation was not the proper forum for resolving that question.

KEY QUOTATIONS

“The proper means of obtaining appellate review in such circumstances as are here presented, where the trial court has enjoined the activity of a nonparty, is by means of an appeal.” (at 754)

“As a result, the trial court had no authority to restrict the Board’s actions through the discovery process.” (at 755)

“The trial court had no jurisdiction over the Board so as to enjoin a nonparty State agency in the circumstances here presented.” (at 756)

FACTUAL BACKGROUND

Gwin and Turner participated in an Alabama State deferred-compensation plan and sued Nationwide, ASEA, and PEBCO, alleging breach of fiduciary duty, conversion, and breach of contract. The State Personnel Board issued administrative subpoenas seeking information concerning the plan and the relationships and financial activities of the defendants. Although the Board moved to intervene, it never became a party and withdrew its intervention motion. The Jefferson Circuit Court nevertheless prohibited the Board from issuing further subpoenas relating to the litigation.

PROCEDURAL HISTORY

Ruth A. Gwin and Sandra H. Turner sued Nationwide, ASEA, and PEBCO in Jefferson Circuit Court concerning alleged misconduct in the administration of a deferred-compensation plan. The State Personnel Board moved to intervene but withdrew that motion before the trial court entered an order barring it from issuing subpoenas concerning the litigation. The Board petitioned for mandamus and separately appealed. The Supreme Court dismissed the mandamus petition, treated the appeal as the proper vehicle for review, reversed the injunction, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The July 16, 2009, order enjoining the State Personnel Board from issuing subpoenas was reversed, and case no. 1081462 was remanded to the Jefferson Circuit Court. The mandamus petition in case no. 1081436 was dismissed.

CASES CITED

- Kappa Sigma Fraternity v. Price-Williams, 40 So. 3d 683, 690 (Ala. 2009)
- Dawkins v. Walker, 794 So. 2d 333, 335 (Ala. 2001)
- Samnorwood Indep. Sch. Dist. v. Texas Educ. Agency, 533 F.3d 258, 265 n. 16 (5th Cir. 2008)
- United States v. Kirschenbaum, 156 F.3d 784, 794 (7th Cir. 1998)
- In re Estate of Ferdinand Marcos Human Rights Litig., 94 F.3d 539, 544 (9th Cir. 1996)
- In re Piper Funds, Inc., Institutional Gov't Income Portfolio Litig., 71 F.3d 298, 301 (8th Cir. 1995)
- Aland v. Graham, 287 Ala. 226, 229-30, 250 So. 2d 677, 679 (1971)
- Tri-State Corp. v. State ex rel. Gallion, 272 Ala. 41, 46, 128 So. 2d 505, 509 (1961)
- Drummond Co. v. Alabama Dep't of Transp., 937 So. 2d 56, 58 (Ala. 2006)
- Ex parte Horton Homes, Inc., 774 So. 2d 536, 539 (Ala. 2000)
- Ex parte Thomas, 628 So. 2d 483, 485 (Ala. 1993)
- Ex parte Nissei Sangyo America, Ltd., 577 So. 2d 912 (Ala. 1991)

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