

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Douglas Arbuckle v. Walter Smith

Arbuckle v. Smith · No. No. 17-0239 · Decided March 23, 2018

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the denial of Douglas Arbuckle’s Rule 60(b) motion to set aside a default judgment in a legal malpractice action. The court held that Arbuckle failed to demonstrate excusable neglect or good cause, emphasizing his repeated discovery violations, failure to appear, and intransigent conduct.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Robin Jean Davis; Justice Menis E. Ketchum; Justice Allen H. Loughry II; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	March 23, 2018
DOCKET	No. 17-0239
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the Circuit Court of Monroe County's denial of his motion under West Virginia Rules of Civil Procedure 60(b) to set aside a default judgment entered after the court struck his answer as a discovery sanction.
STANDARD OF REVIEW	A motion to vacate a default judgment is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published memorandum decision
PARTIES	Douglas Arbuckle v. Walter Smith

TOPICS

- default judgment
- discovery dispute
- sanctions
- civil procedure
- standard of review

PRACTICE AREAS

- civil procedure
- appellate procedure
- legal malpractice
- default judgments
- discovery sanctions

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying Arbuckle's Rule 60(b) motion to set aside the default judgment.
2. Whether Arbuckle established good cause under Rule 55(c) and Rule 60(b), including excusable neglect, to obtain relief from the default judgment.
3. Whether Arbuckle demonstrated a meritorious defense, including a statute-of-limitations defense, to Smith's legal-malpractice claim.

HOLDINGS

1. The circuit court did not abuse its discretion in denying Arbuckle's motion to set aside the default judgment because he failed to show good cause.
2. Arbuckle failed to demonstrate excusable neglect for failing to respond fully to discovery and failing to appear at the hearings and trial.
3. The legal-malpractice action was not barred by the applicable statute of limitations.
4. Arbuckle failed to show that Smith's amended complaint was frivolous under Rule 11.

KEY QUOTATIONS

“In determining whether a default judgment should be . . . vacated upon a Rule 60(b) motion, the trial court should consider: (1) The degree of prejudice suffered by the plaintiff from the delay in answering; (2) the presence of material issues of fact and meritorious defenses; (3) the significance of the interests at stake; and (4) the degree of intransigence on the part of the defaulting party.” (3)

“In addressing a motion to set aside a default judgment, “good cause” requires not only considering the factors set out in Syllabus point 3 of Parsons v. Consolidated Gas Supply Corp., 163 W.Va. 464, 256 S.E.2d 758 (1979), but also requires a showing that a ground set out under Rule 60(b) . . . has been satisfied.” (3)

“Therefore, we conclude that petitioner failed to demonstrate excusable neglect for his failure to timely and fully respond to discovery requests and to appear at hearings and the November 16, 2016, trial.” (5)

“Therefore, we find that the circuit court did not abuse its discretion in denying petitioner’s Rule 60(b) motion to set aside the default judgment awarded to respondent.” (6)

FACTUAL BACKGROUND

Arbuckle, an attorney, represented Smith in a prior action in which judgment was entered against Smith. Smith then filed a legal-malpractice action against Arbuckle. Arbuckle failed to fully respond to discovery, failed to comply with a discovery-sanctions order, and failed to appear at the sanctions hearing, pretrial conference, and trial. The circuit court struck his answer, entered default on liability, and awarded Smith \$51,423.95 plus interest after hearing Smith's damages evidence.

PROCEDURAL HISTORY

Walter Smith sued Douglas Arbuckle for alleged legal malpractice. After Arbuckle failed to fully comply with discovery orders and failed to appear at hearings and trial, the circuit court struck his answer, entered default on liability, and later entered a \$51,423.95 default judgment plus interest. The circuit court denied Arbuckle's Rule 60(b) motion to set aside the judgment, and the Supreme Court of Appeals of West Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Hardwood Group v. LaRocco, 219 W. Va. 56, 631 S.E.2d 614 (2006)
- Parsons v. Consolidated Gas Supply Corp., 163 W. Va. 464, 256 S.E.2d 758 (1979)
- Hall v. Nichols, 184 W. Va. 466, 400 S.E.2d 901 (1990)
- State ex rel. Clark v. Blue Cross Blue Shield of West Virginia, Inc., 203 W. Va. 690, 510 S.E.2d 764 (1998)
- State ex rel. Miller v. Karl, 231 W. Va. 65, 743 S.E.2d 876 (2013)

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