

SUPREME COURT OF ARKANSAS

Carter v. Georgia-Pacific Resins, Inc., 368 Ark. 19

242 S.W.3d 616 (2006) · No. No. 05-1250 · Decided November 9, 2006

SUMMARY

The Supreme Court of Arkansas held that the circuit court lacked jurisdiction to determine whether asbestos-related employee injuries were covered by the Arkansas Workers' Compensation Act. The Workers' Compensation Commission had exclusive original jurisdiction to make that determination, and the appeal was dismissed with leave for the parties to proceed before the Commission.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah, Chief Justice; Roger D. Rowe, Special Justice
JURISDICTION	Arkansas
DECIDED	November 9, 2006
DOCKET	No. 05-1250
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs appealed an order dismissing their claims against Georgia-Pacific Resins, Inc. under the exclusive-remedy provision of the Arkansas Workers' Compensation Act and dismissing negligent-infliction-of-emotional-distress claims. The circuit court certified the dismissals as final under Arkansas Rule of Civil Procedure 54(b).
STANDARD OF REVIEW	De novo review of the circuit court's jurisdiction; the Workers' Compensation Commission has exclusive original jurisdiction to determine the facts establishing coverage under the Workers' Compensation Act unless the facts are so one-sided that the issue is purely a matter of law.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Cary Lee Carter and Shelley Carter, individually and on behalf of Brett Carter, Bradley Slade Cheek and Tina Michelle Cheek, individually and on behalf of Hunter Slade Cheek, Raymond T. Cheek and Cynthia Gail Cheek, individually and on behalf of Sarah Elizabeth Cheek, Joseph Raymond Cheek, and Stephanie Renee Cheek, Jesse Lee Cooke and Debra Denise Cooke, individually and on behalf of Jessica

Denise Cooke and Draylon O'Bryan Cooke, Mark Wayne Higginbotham and Tonya Higginbotham, individually and on behalf of Marcus Blake Higginbotham and Chase Higginbotham, James Woods and Tammie S. Woods, individually and on behalf of Tara L. Woods and Joshua C. Woods, Armenda Morrison Mason, Thomas Ray Turner v. Georgia-Pacific Resins, Inc., Georgia-Pacific Corporation, Chemical Division, Teadit N.A., Inc., Conventional Sealing Materials, Inc., Teadit Industria E Comercio Ltda, Proamianto Comercio E Exportaoo, S.A., Monroe Rubber & Gasket Co.

TOPICS

workers compensation

administrative law

subject matter jurisdiction

appellate procedure

civil procedure

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the circuit court had jurisdiction to determine whether the employees' alleged asbestos-related injuries were covered by the Arkansas Workers' Compensation Act.
2. Whether the appeal could be decided on the merits after the circuit court made the coverage determination rather than submitting the jurisdictional facts to the Workers' Compensation Commission.

HOLDINGS

1. The circuit court lacked jurisdiction to determine whether the employees' injuries were covered under the Workers' Compensation Act because the Workers' Compensation Commission has exclusive original jurisdiction to determine the facts establishing coverage, absent facts so one-sided that coverage is a matter of law.
2. Constitutional issues concerning the Workers' Compensation Act should first be raised before the administrative law judge or Workers' Compensation Commission, even though the Commission may lack authority to declare statutes unconstitutional.

KEY QUOTATIONS

“the commission has exclusive, original jurisdiction to determine the facts that establish jurisdiction, unless the facts are so one-sided that the issue is no longer one of fact but one of law, such as an intentional tort.”
(618)

“Based on the foregoing, we, hold that the circuit court lacked jurisdiction to determine whether the employees' injuries were covered under our Workers' Compensation Act.” (619)

FACTUAL BACKGROUND

Current and former employees of Georgia-Pacific Resins, Inc. alleged that they were exposed to asbestos while working at the company's plant in Crossett, Arkansas. Spouses, children, and other household members asserted derivative claims, and the plaintiffs also sued distributors of asbestos-containing gasket materials used at the plant. The factual record was not so one-sided as to establish as a matter of law that the Workers' Compensation Act did not apply.

PROCEDURAL HISTORY

The plaintiffs filed asbestos-exposure claims in Ashley County Circuit Court against their employer, distributors of asbestos-containing gasket materials, and other defendants. The circuit court dismissed all employee claims against Georgia-Pacific and derivative claims on the ground that they arose out of and in the course of employment and were barred by the Workers' Compensation Act, and also dismissed negligent-infliction-of-emotional-distress claims. After Rule 54(b) certification, the plaintiffs appealed; the Supreme Court of Arkansas dismissed the appeal for lack of circuit-court jurisdiction to decide whether the Workers' Compensation Act applied.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

The parties may pursue a determination of Workers' Compensation Act coverage before the Workers' Compensation Commission. The dismissal applies only to the issues certified under Rule 54(b); the remaining circuit-court claims were not before the Supreme Court.

CASES CITED

- VanWagoner v. Beverly Enterprises, 334 Ark. 12, 970 S.W.2d 810 (1998)
- Angle v. Alexander, 328 Ark. 714, 945 S.W.2d 933 (1997)
- Miller v. Ensco, Inc., 286 Ark. 458, 692 S.W.2d 615 (1985)
- Stocks v. Affiliated Foods Southwest, Inc., 363 Ark. 235, 213 S.W.3d 3 (2005)
- Merez v. Squire Court Ltd. P'ship, 353 Ark. 174, 114 S.W.3d 184 (2003)
- Johnson v. Union Pac. R.R., 352 Ark. 534, 104 S.W.3d 745 (2003)
- WENCO Franchise Mgmt., Inc. v. Chamness, 341 Ark. 86, 13 S.W.3d 903 (2000)
- Ark. Health Servs. Agency v. Desiderata, Inc., 331 Ark. 144, 958 S.W.2d 7 (1998)
- Hamilton v. Jeffrey Stone Co., 6 Ark. App. 333, 641 S.W.2d 723 (1982)
- Moses v. Hanna's Candle Co., 366 Ark. 233, 234 S.W.3d 872 (2006)