

SUPREME COURT OF ALABAMA

Ex parte Daniels and Sellers

941 So. 2d 251 (Ala. 2006) · No. 1040771 · Decided April 21, 2006

SUMMARY

The Alabama Supreme Court granted Howard Daniels and Ronald Sellers a writ of mandamus directing transfer of a wrongful-death and civil-rights action from Wilcox County to Montgomery County. The court held that Alabama Code § 6-3-9 requires transfer of actions in which the State is interested on account of the prison system and that the venue challenge was timely despite not being raised in the defendants’ initial motion to dismiss.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Smith, Justice; Nabers, Chief Justice; See, Justice; Harwood, Justice; Stuart, Justice; Bolin, Justice
JURISDICTION	Alabama
DECIDED	April 21, 2006
DOCKET	1040771
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of mandamus seeking to compel the Wilcox Circuit Court to transfer the underlying action to the Montgomery Circuit Court under Ala. Code 1975, § 6-3-9.
STANDARD OF REVIEW	Review of a mandamus petition concerning venue asks whether the trial court exceeded its discretion in granting or denying the motion for a change of venue. Mandamus requires a clear legal right to the requested order, an imperative duty to perform accompanied by refusal, no other adequate remedy, and properly invoked jurisdiction.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Howard Daniels, Ronald Sellers v. Donna Walker, individually and as personal representative of the estate of Julius Finley, Jr.

TOPICS

- venue
- writ of certiorari
- appellate procedure
- statutory interpretation
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

civil rights

torts

QUESTIONS PRESENTED

1. Whether Ala. Code 1975, § 6-3-9 requires transfer to Montgomery County when state officers are sued in their official capacities for conduct related to the state prison system.
2. Whether the request for transfer was waived or untimely because Daniels and Sellers did not raise venue in their initial motion to dismiss or at earlier stages of the litigation.
3. Whether Daniels and Sellers established a clear legal right to mandamus relief directing the Wilcox Circuit Court to transfer the action.

HOLDINGS

1. Ala. Code 1975, § 6-3-9 requires transfer to the Montgomery Circuit Court when an action implicates the State's interest on account of the prison system, even when the State or Department of Corrections is not named as a party and the defendants are prison officials sued in their official capacities.
2. The request to transfer under § 6-3-9 was not waived or rendered untimely by failure to raise venue in the initial motion to dismiss because § 6-3-9 contains a specific timing provision allowing the State's interest and the need for transfer to be shown before trial.
3. Daniels and Sellers were entitled to a writ of mandamus directing the trial court to transfer the action to the appropriate court in Montgomery County.

KEY QUOTATIONS

“The plain language of § 6-3-9 does not require that the Department of Corrections or the State be named as a party; instead, it must merely be “suggested by the [Department] of Corrections or . . . otherwise shown that the state is interested on account of the prison system. . . .” At that point, the case “must” be transferred to Montgomery County.” (941 So. 2d at 256)

*“The language of § 6-3-9 is similar to the language of § 6-5-546, and we find the rationale of *Ex parte Children's Hospital* persuasive.”* (941 So. 2d at 258)

“The plain language of § 6-3-9 requires that this action be transferred from Wilcox County to Montgomery County, and the request to transfer the case was not untimely; therefore, the trial court is directed to transfer this action to the appropriate court in Montgomery County.” (941 So. 2d at 259)

FACTUAL BACKGROUND

Julius Finley, an inmate at the Camden Community Based Facility in Wilcox County, lost consciousness on May 2, 2002, was transported to a hospital the next day, and died on May 4. His daughter and estate representative, Donna Walker, sued the facility, Wilcox County, and the facility's warden and assistant warden, Daniels and Sellers, asserting negligence, negligent supervision and training, denial of medical attention, civil-rights claims, and a wrongful-death claim. Daniels and Sellers were sued in their official capacities for conduct related to operating the corrections facility and caring for Finley.

PROCEDURAL HISTORY

Walker filed an action in Talladega County against the Camden Community Based Facility, Wilcox County, and Daniels and Sellers arising from Finley's death. The action was transferred to Wilcox County, and after various dismissals and reinstatement of claims against Daniels and Sellers, the Alabama Department of Corrections and then Daniels and Sellers sought transfer to Montgomery County under § 6-3-9. The Wilcox Circuit Court denied the transfer motions, and Daniels and Sellers petitioned the Supreme Court of Alabama for mandamus. The Supreme Court granted the petition and issued the writ.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Wilcox Circuit Court was directed to transfer the action to the appropriate court in Montgomery County.

CASES CITED

- Ex parte Pike Fabrication, Inc., 859 So. 2d 1089, 1091 (Ala. 2002)
- Ex parte Alabama Great Southern R.R., 788 So. 2d 886, 888 (Ala. 2000)
- Ex parte BOC Group, Inc., 823 So. 2d 1270, 1272 (Ala. 2001)
- Ex parte Perfection Siding, Inc., 882 So. 2d 307, 310 (Ala. 2003)
- Ex parte Madison County, 406 So. 2d 398, 399-401 (Ala. 1981)
- Hartley v. State, 882 So. 2d 869, 871 (Ala. Civ. App. 2003)
- Pinkard v. State, 859 So. 2d 449 (Ala. Crim. App. 2003)
- Latham v. Department of Corrections, 927 So. 2d 815, 820 (Ala. 2005)
- Haley v. Barbour County, 885 So. 2d 783, 788 (Ala. 2004)
- Ex parte Children's Hospital of Alabama, 721 So. 2d 184, 187-189 (Ala. 1998)
- Ex parte Kennedy, 656 So. 2d 365, 367-368 (Ala. 1995)
- Ex parte Till, 595 So. 2d 871, 872 (Ala. 1992)
- Ex parte Tanksley, 418 So. 2d 94 (Ala. 1982)
- Fletcher v. Tuscaloosa Federal Savings & Loan Ass'n, 294 Ala. 173, 314 So. 2d 51 (1975)
- State v. Robinson Land & Lumber Co. of Alabama, 262 Ala. 146, 77 So. 2d 641 (1955)
- Hawkins v. Jefferson County, 233 Ala. 49, 169 So. 720 (1936)
- Moore v. Stephens, 264 Ala. 86, 84 So. 2d 752 (1956)
- City of Birmingham v. Hendrix, 257 Ala. 300, 58 So. 2d 626 (1952)

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