

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Troy Jermaine Green v. Ford Motor Credit Company

No. 14-0816 (Berkeley County 01-C-399) · No. No. 14-0816 · Decided May 1, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Troy Jermaine Green’s motion under West Virginia Rule of Civil Procedure 60(b) to vacate a settlement order. The court held that the circuit court did not abuse its discretion in finding that Green’s six-month delay after release from incarceration was unreasonable, particularly given his receipt of notice and settlement proceeds and the resulting prejudice to Ford Motor Credit Company.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	May 1, 2015
DOCKET	No. 14-0816
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the denial of his motion under West Virginia Rule of Civil Procedure 60(b) to vacate an order approving a settlement.
STANDARD OF REVIEW	The denial of a Rule 60(b) motion is reviewed for abuse of discretion. The appellate court reviews whether the circuit court abused its discretion in concluding that sufficient grounds for disturbing the finality of the settlement order were not shown in a timely manner.
PRECEDENTIAL VALUE	unpublished memorandum decision
PARTIES	Troy Jermaine Green v. Ford Motor Credit Company

TOPICS

- civil procedure
- appellate procedure
- standard of review
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by finding that Green did not move to vacate the settlement within a reasonable time under Rule 60(b).
2. Whether the circuit court committed a clear error of judgment in weighing the relevant factors bearing on the timeliness of Green's Rule 60(b) motion.

HOLDINGS

1. The circuit court did not abuse its discretion in concluding that Green's six-month delay after release from incarceration was unreasonable under Rule 60(b), particularly because Green accepted the settlement proceeds, did not notify Ford Motor Credit of his challenge before filing the formal motion, and the delay prejudiced Ford Motor Credit.
2. The circuit court did not commit a clear error of judgment in weighing the relevant factors concerning the timeliness of Green's motion to vacate.

KEY QUOTATIONS

“Specifically, our function is limited to deciding whether the circuit court abused its discretion in concluding that sufficient grounds for disturbing the finality of the August 1, 2005 settlement order, were not shown in a timely manner.” (at 2)

“Accordingly, we conclude that the circuit court did not abuse its discretion in denying petitioner’s Rule 60(b) motion to vacate the August 1, 2005 settlement order.” (at 3)

FACTUAL BACKGROUND

Green entered into a settlement with Ford Motor Credit that was approved by the circuit court on August 1, 2005, and received \$1,000 in exchange for dismissal of all claims. A guardian ad litem sent Green notice of the settlement at an address where he admittedly received other letters. Green was released from incarceration and filed a formal motion to vacate the settlement on September 28, 2012, more than six months after his release, without previously informing Ford Motor Credit that he challenged the settlement. The circuit court found that the delay and the resulting thirteen-year age of the case prejudiced Ford Motor Credit.

PROCEDURAL HISTORY

The circuit court originally denied Green's motion to vacate the August 1, 2005 settlement order. In *Green I*, the Supreme Court of Appeals of West Virginia reversed and remanded for a new hearing on whether Green moved to vacate within a reasonable time after his release from incarceration. After the remand hearing, the circuit court again denied the motion, finding that Green's six-month delay after release was unreasonable and prejudiced Ford Motor Credit. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Green v. Ford Motor Credit Co., No. 13-0243, 2014 WL 274474 (W. Va. Jan. 24, 2014)
- Toler v. Shelton, 157 W. Va. 778, 204 S.E.2d 85 (1974)
- Toler v. Shelton, 157 W. Va. 778, 204 S.E.2d 85 (1974)
- State v. Guthrie, 194 W. Va. 657, 461 S.E.2d 163 (1995)
- Banker v. Banker, 196 W. Va. 535, 474 S.E.2d 465 (1996)

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