

SUPREME COURT OF MISSISSIPPI

Robert Neider and Stan Bush v. Tom Franklin d/b/a Pure Gold

844 So. 2d 433 (Miss. 2003) · No. No. 2001-CA-01757-SCT · Decided February 13, 2003

SUMMARY

The Supreme Court of Mississippi reviewed a judgment arising from Stan Bush's breach of a personal services contract with Tom Franklin and Robert Neider's alleged tortious interference with that contract. The court affirmed the \$50,000 compensatory damages award, concluding that sufficient evidence supported the contract and interference claims. It reversed and rendered the \$100,000 punitive damages award because the evidence did not establish the requisite malicious or egregious intent.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, J.; Pittman, C.J.; Carlson, J.; McRae, P.J.; Smith, P.J.; Cobb, J.; Easley, J.; Diaz, J.; Graves, J.
JURISDICTION	Mississippi
DECIDED	February 13, 2003
DOCKET	No. 2001-CA-01757-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a judgment entered on a unanimous jury verdict awarding Franklin compensatory and punitive damages on claims for tortious interference with contractual relations and breach of contract.
STANDARD OF REVIEW	Contract ambiguity is determined as a matter of law; interpretation of an ambiguous contract submitted to the jury is reviewed under a substantial-evidence/manifest-error standard. A jury verdict is reviewed for whether it is against the overwhelming weight of the evidence, with deference to the jury's credibility and evidentiary-weight determinations. The sufficiency of evidence supporting punitive damages is reviewed to determine whether the evidence could support a finding of malice or gross disregard for the rights of others.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion
PARTIES	Robert Neider, Stan Bush v. Tom Franklin d/b/a Pure Gold

TOPICS

intentional interference with contract

breach of contract

punitive damages

preservation of error

appellate procedure

PRACTICE AREAS

torts

contracts

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether Bush's unconscionability and ambiguity arguments concerning the personal service agreement were preserved for appellate review.
2. Whether the interpretation of the personal service agreement was properly submitted to the jury.
3. Whether Franklin presented sufficient evidence of Neider's tortious interference with contractual relations.
4. Whether the \$50,000 compensatory-damages award was against the overwhelming weight of the evidence.
5. Whether the evidence supported a punitive-damages instruction and the \$100,000 punitive-damages award.

HOLDINGS

1. Bush's arguments that the contract was unconscionable and ambiguous were waived and procedurally barred because he did not raise them in the trial court.
2. The trial court properly submitted interpretation of the personal service agreement to the jury because the six-month restriction was ambiguous and susceptible to differing interpretations.
3. The evidence was sufficient to submit Franklin's tortious-interference claim against Neider to the jury.
4. The \$50,000 compensatory-damages award was not against the overwhelming weight of the evidence and was affirmed.
5. The evidence did not establish the level of malicious, willful, or grossly reckless conduct required for punitive damages, so the punitive-damages instruction was erroneous and the \$100,000 punitive award was reversed and rendered.

KEY QUOTATIONS

"To establish a claim of tortious interference with contractual relations, a plaintiff must prove: (1) that the acts were intentional and willful; (2) that they were calculated to cause damage to the plaintiffs in their lawful business; (3) that they were done with the unlawful purpose of causing damage and loss, without right or justifiable cause on the part of the defendant (which constitutes malice); and (4) that actual damage and loss resulted." (at 437)

"In order for punitive damages to be awarded, the plaintiff must demonstrate a willful or malicious wrong or the gross, reckless disregard for the rights of others. Punitive damages are only appropriate in the most

egregious cases so as to discourage similar conduct and should only be awarded in cases where the actions are extreme.” (at 438)

FACTUAL BACKGROUND

Stan Bush entered a personal service agreement obligating him to perform for Franklin's Pure Gold act during 1999 and 2000, including a six-month, 100-mile noncompetition restriction. Bush quit in October 1999, after which Robert Neider, who knew Bush was under contract, helped arrange an employment contract and supported Bush financially through approximately 80 checks totaling nearly \$60,000. Franklin sued Bush for breach of contract and Neider for tortious interference, and the jury awarded compensatory and punitive damages.

PROCEDURAL HISTORY

Franklin sued Bush for breach of contract and Neider for tortious interference with contractual relations in the Harrison County Circuit Court. A jury awarded Franklin \$50,000 in compensatory damages and \$100,000 in punitive damages. After defendants moved for JNOV, a new trial, or remittitur, the trial court entered joint and several liability for compensatory damages against both defendants and punitive liability against Neider alone. The Mississippi Supreme Court affirmed the compensatory award and reversed and rendered the punitive award.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The compensatory judgment remains affirmed; the punitive-damages award is reversed and rendered. No specific further remand instruction is stated.

CASES CITED

- Farmer v. B & G Food Enters., Inc., 818 So. 2d 1154, 1160 (Miss. 2002)
- Boyles v. Miss. State Oil & Gas Bd., 794 So. 2d 149, 153 (Miss. 2001)
- Brown v. Miss. Transp. Comm'n, 749 So. 2d 948, 952 (Miss. 1999)
- Lemon v. Miss. Transp. Comm'n, 735 So. 2d 1013, 1024 (Miss. 1999)
- Mills v. Nichols, 467 So. 2d 924, 931 (Miss. 1985)
- Miss. Transp. Comm'n v. Ronald Adams Contractor, Inc., 753 So. 2d 1077, 1087 (Miss. 2000)
- Universal Underwriters Ins. Co. v. Ford, 734 So. 2d 173, 176 (Miss. 1999)
- IP Timberlands Operating Co., Ltd. v. Denmiss Corp., 726 So. 2d 96, 106 (Miss. 1998)
- Clark v. State Farm Mut. Auto. Ins. Co., 725 So. 2d 779, 781 (Miss. 1998)
- Lamb Constr. Co. v. Town of Renova, 573 So. 2d 1378, 1383 (Miss. 1990)
- Bryant v. Cameron, 473 So. 2d 174, 179 (Miss. 1985)
- Par Indus., Inc. v. Target Container Co., 708 So. 2d 44, 48 (Miss. 1998)

- *Cenac v. Murry*, 609 So. 2d 1257, 1268-69 (Miss. 1992)
- *Cranford v. Shelton*, 378 So. 2d 652, 655 (Miss. 1980)
- *Liston v. Home Ins. Co.*, 659 F. Supp. 276, 281 (S.D. Miss. 1986)
- *Ducker v. Moore*, 680 So. 2d 808, 811 (Miss. 1996)
- *Wallace v. Thornton*, 672 So. 2d 724, 727 (Miss. 1996)
- *Sessums v. Northtown Limousines, Inc.*, 664 So. 2d 164, 168 (Miss. 1995)
- *Odom v. Roberts*, 606 So. 2d 114, 118 (Miss. 1992)
- *Paracelsus Health Care Corp. v. Willard*, 754 So. 2d 437, 442 (Miss. 1999)
- *Summers ex rel. Dawson v. St. Andrew's Episcopal Sch., Inc.*, 759 So. 2d 1203, 1215 (Miss. 2000)
- *Fowler Butane Gas Co. v. Varner*, 244 Miss. 130, 150-51, 141 So. 2d 226, 233 (1962)
- *Malone v. Capital Corr. Res., Inc.*, 808 So. 2d 963, 969 (Miss. 2002)

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