

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Wilson v. Belin

20 F.3d 644 (5th Cir. 1994) · No. No. 93-1907 · Decided May 13, 1994

SUMMARY

The Fifth Circuit affirmed dismissal of a defamation action for lack of personal jurisdiction over Indiana and Iowa defendants. The court held that the defendants' unsolicited telephone comments to a Texas reporter did not establish sufficient specific jurisdiction, and their other sporadic Texas contacts were neither continuous and systematic nor substantial enough for general jurisdiction. The court also rejected challenges concerning removal, remand, and discovery.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	E. Grady Jolly; Wiener; Emilio M. Garza
JURISDICTION	Federal
DECIDED	May 13, 1994
DOCKET	No. 93-1907
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wilson appealed from the Northern District of Texas's dismissal of his Texas defamation action against two nonresident defendants for lack of specific and general personal jurisdiction.
STANDARD OF REVIEW	The court reviewed de novo the district court's determination that personal jurisdiction over nonresident defendants was proper when the relevant facts were undisputed. It reviewed the district court's handling of discovery for abuse of discretion.
PRECEDENTIAL VALUE	Published Fifth Circuit opinion; precedential.
PARTIES	Thomas W. Wilson v. Davis W. Belin, G. Robert Blakey

TOPICS

- personal jurisdiction
- civil procedure
- defamation
- appellate procedure
- discovery dispute

PRACTICE AREAS

- civil procedure
- constitutional law
- defamation
- appellate procedure

QUESTIONS PRESENTED

1. Whether Texas could exercise specific personal jurisdiction over the nonresident defendants based on their responses to an unsolicited telephone call from a Texas reporter and the publication of those responses in Texas.
2. Whether Texas could exercise general personal jurisdiction over the defendants based on their other, unrelated contacts with Texas.
3. Whether removal was timely and proper when the defendants removed within thirty days after receiving the complaint but more than thirty days after the filing of an earlier bill of discovery.
4. Whether the district court could decide personal jurisdiction before ruling on Wilson's motion to remand.
5. Whether the district court abused its discretion by declining to compel additional discovery before dismissing for lack of personal jurisdiction.

HOLDINGS

1. Texas could not exercise specific personal jurisdiction over Belin and Blakey because their unsolicited responses to a reporter's call did not constitute purposeful availment or purposeful direction of activity toward Texas.
2. Texas could not exercise general personal jurisdiction over either defendant because their unrelated contacts with Texas were not sufficiently continuous, systematic, and substantial.
3. In a diversity action, federal personal jurisdiction extends only as far as the forum state's courts could exercise jurisdiction, subject to the forum's long-arm statute and federal due process; when no evidentiary hearing is held, the plaintiff may establish jurisdiction through a prima facie showing.
4. Removal was timely because the thirty-day removal period began upon receipt of the first pleading setting forth a claim for relief, not upon receipt of the earlier bill of discovery; the district court also could decide personal jurisdiction before resolving the motion to remand.
5. The district court did not abuse its broad discretion by declining to compel additional discovery before dismissing for lack of personal jurisdiction.

KEY QUOTATIONS

“We hold that the assertion of specific personal jurisdiction over Blakey and Belin would deprive them of the due process liberty interest not to be subjected to suit in a distant forum with which they have little connection.” (at 9)

“Consequently, we hold that the assertion of general personal jurisdiction over Blakey and Belin would deprive them of their respective due process liberty interests not to be subjected to suit in a distant forum with which they have little connection.” (at 13)

FACTUAL BACKGROUND

Wilson, a Pennsylvania resident, spoke at a Dallas symposium about his theory that photographic evidence concerning the Kennedy assassination had been altered and revealed a second gunman. A Dallas newspaper reporter called Belin in Iowa and Blakey in Indiana for their reactions, and the resulting article quoted both

defendants critically characterizing Wilson's theory. Wilson sued for defamation in Texas, although none of the parties resided there and neither defendant initiated the calls or otherwise purposefully directed conduct toward Texas.

PROCEDURAL HISTORY

Wilson first filed a bill of discovery in Texas state court and then filed a defamation suit against Belin and Blakey. The defendants removed the action to federal court based on diversity jurisdiction. The district court dismissed for lack of personal jurisdiction, and the Fifth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Bullion v. Gillespie, 895 F.2d 213 (5th Cir. 1990)
- Schlobohm v. Schapiro, 784 S.W.2d 355 (Tex. 1990)
- Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinée, 456 U.S. 694 (1982)
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310 (1945)
- Asahi Metal Indus. Co. v. Superior Court, 480 U.S. 102 (1987)
- Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408 (1984)
- Stuart v. Spademan, 772 F.2d 1185 (5th Cir. 1985)
- Thompson v. Chrysler Motors Corp., 755 F.2d 1162 (5th Cir. 1985)
- D.J. Investments, Inc. v. Metzeler Motorcycle Tire Agent Gregg, Inc., 754 F.2d 542 (5th Cir. 1985)
- Calder v. Jones, 465 U.S. 783 (1984)
- Keeton v. Hustler Magazine, Inc., 465 U.S. 770 (1984)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985)
- Brown v. Flowers Indus., Inc., 688 F.2d 328 (5th Cir. 1982)
- McBreen v. Beech Aircraft Corp., 543 F.2d 26 (7th Cir. 1976)
- Perkins v. Benguet Consol. Mining Co., 342 U.S. 437 (1952)
- Holt Oil & Gas Corp. v. Harvey, 801 F.2d 773 (5th Cir. 1986)
- Marcel v. Pool Co., 5 F.3d 81 (5th Cir. 1993)
- Villar v. Crowley Maritime Corp., 990 F.2d 1489 (5th Cir. 1993)
- Wyatt v. Kaplan, 686 F.2d 276 (5th Cir. 1982)