

SUPREME COURT OF TEXAS

Royce B. West, Julia L.S. Gooden, a/k/a Julia L.S. Gooden-Wood,
and Robinson West & Gooden, P.C. v. Malcolm S. Robinson

West v. Robinson · No. 04-0346 · Decided December 9, 2005

SUMMARY

The Supreme Court of Texas held that the court of appeals failed to address modification and waiver issues necessary to the disposition of an arbitration dispute, contrary to Texas Rule of Appellate Procedure 47.1. The court granted review, reversed the court of appeals’ judgment, and remanded for further proceedings. The underlying dispute concerned an agreement to arbitrate and dissolve a law firm corporation.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	December 9, 2005
DOCKET	04-0346
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of a court of appeals judgment reversing confirmation of an arbitration award and rendering judgment compelling arbitration of the mechanics of corporate dissolution.
PRECEDENTIAL VALUE	published opinion
PARTIES	Royce B. West, Julia L.S. Gooden, a/k/a Julia L.S. Gooden-Wood, Robinson West & Gooden, P.C. v. Malcolm S. Robinson

TOPICS

- appellate procedure
- arbitration
- civil procedure
- dissolution

PRACTICE AREAS

- appellate procedure
- arbitration
- civil procedure
- corporate law

QUESTIONS PRESENTED

1. Whether the court of appeals complied with Texas Rule of Appellate Procedure 47.1 by addressing all issues raised and necessary to the disposition of the appeal.
2. Whether the court of appeals was required to address whether the parties modified the arbitration agreement and whether Robinson waived his objection to the scope of arbitration.

HOLDINGS

1. The court of appeals failed to comply with Rule 47.1 because it did not identify and expressly decide the distinct issues of modification and waiver that were raised and were necessary to the disposition of the appeal.

KEY QUOTATIONS

“The court of appeals must hand down a written opinion that is as brief as practicable but that addresses every issue raised and necessary to final disposition of the appeal.”

“We have said that this provision is mandatory, and the courts of appeals are not at liberty to disregard it.”

FACTUAL BACKGROUND

Malcolm S. Robinson, Royce B. West, and Julia L.S. Gooden practiced law through Robinson West & Gooden, P.C. Robinson sued West, Gooden, and the corporation, while West asserted counterclaims. The parties jointly agreed to arbitrate their disputes and dissolve the corporation, but the arbitrator issued an award that did not dissolve it.

PROCEDURAL HISTORY

Robinson sued West, Gooden, and their corporation and sought dissolution of the corporation. The parties filed a joint motion to abate agreeing to arbitrate their disputes and dissolve the corporation; the trial court ordered arbitration and later confirmed an award that did not dissolve the corporation. The court of appeals reversed and rendered judgment compelling arbitration of the mechanics of dissolution, but did not address whether the arbitration agreement had been modified or whether Robinson waived his scope objection. The Supreme Court of Texas granted review, reversed the court of appeals, and remanded for consideration of those issues.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Court of Appeals for the Eleventh District of Texas for further proceedings consistent with the opinion, including consideration of whether the arbitration agreement was modified and whether Robinson waived his objection to the scope of arbitration.

CASES CITED

- Tex. Disposal Sys., Inc. v. Perez, 80 S.W.3d 593, 594 (Tex. 2002)

- Latham v. Castillo, 972 S.W.2d 66, 70 (Tex. 1998)
- Lone Star Gas Co. v. R.R. Comm'n, 767 S.W.2d 709, 711 (Tex. 1989)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF TEXAS ===== No. 04-0346 =====
 Royce B. West, Julia L.S. Gooden, a/k/a Julia L.S. Gooden-Wood, and Robinson West & Gooden,
 P.C., Petitioners v. Malcolm S. Robinson, Respondent
 ===== On
 Petition for Review from the Court of Appeals for the Eleventh District of Texas
 ===== PER
 CURIAM Malcolm S. Robinson, Royce B. West, and Julia L.S.

Gooden practiced law at Robinson West & Gooden P.C. Robinson filed suit against West, Gooden, and the corporation (collectively, West), alleging various causes of action and seeking dissolution of the corporation. West answered with a general denial and raised several counterclaims.

The parties then filed a joint motion to abate, which stated: 1. Plaintiff and Defendants have both sued each other in the above referenced matter. 2. The parties however, have agreed and do hereby agree to arbitrate their disputes and dissolve the corporation to wit: Robinson West & Gooden P.C.

The trial court granted the motion and the parties proceeded to arbitration, but the arbitrator's award did not dissolve the corporation. Over Robinson's objection, the trial court confirmed the award. Robinson appealed, arguing that the arbitrator exceeded his authority by making an award that contravened the agreement to dissolve the corporation. West argued that the parties modified the arbitration agreement by submitting amended claims and counterclaims for arbitration pursuant to an agreement they reached with the arbitrator at a preliminary hearing.

West also argued that Robinson waived any complaint about the scope of the arbitration agreement because Robinson did not object during the arbitration proceedings. The court of appeals concluded that the parties, in their joint motion to abate, entered into a binding Rule 11 agreement to dissolve the corporation and that the arbitrator exceeded his authority under that agreement.

It reversed the trial court's judgment and rendered judgment "compelling arbitration of the mechanics of the dissolution of the corporation." ____ S.W.3d ____, ____. The court's opinion did not address whether the arbitration agreement was modified or whether Robinson waived his right to complain about its scope. West filed a motion for rehearing in which he argued that the court failed to address all the issues necessary to disposition of the appeal, as required by Texas Rule of Appellate Procedure 47.1.

Rule 47.1 provides: “The court of appeals must hand down a written opinion that is as brief as practicable but that addresses every issue raised and necessary to final disposition of the appeal.” Tex. R. App. P. 47.1. While the court of appeals acknowledged that West asked the arbitrator not to dissolve the corporation, it failed to identify and expressly consider modification and waiver as distinct issues associated with the relief the parties requested from the arbitrator. ____ S.W.3d at ____.

Consequently, the court of appeals did not comply with Rule 47.1. See *Tex. Disposal Sys., Inc. v. Perez*, 80 S.W.3d 593, 594 (Tex. 2002) (holding that the court of appeals erred in failing to consider an alternative basis asserted by the appellee to support its attorney’s fees award); *Latham v. Castillo*, 972 S.W.2d 66, 70 (Tex. 1998) (concluding that the court of appeals erred in remanding appellants’ fraud and breach of contract claims without discussion).

We have said that this provision is mandatory, and the courts of appeals are not at liberty to disregard it. See *Lone Star Gas Co. v. R.R. Comm’n*, 767 S.W.2d 709, 711 (Tex. 1989) (citing to Texas Rule of Appellate Procedure 90(a), the predecessor to Rule 47.1, and remanding the case for the court of appeals to decide the validity of certain Railroad Commission rules).

Accordingly, without hearing oral argument, we grant the petition for review, reverse the court of appeals’ judgment, and remand the case to that court for further proceedings consistent with this opinion. See Tex. R. App. P. 59.1, 60.2(d). Opinion delivered: December 9, 2005