

SUPREME COURT OF ALABAMA

Elliott v. International Paper Co.

80 So. 3d 908 (Ala. 2011) · No. 1100479; 1100497 · Decided August 19, 2011

SUMMARY

The Alabama Supreme Court reviewed mandamus petitions arising from a venue dispute in a workers' compensation action. It held that International Paper and Chapman were doing business in Conecuh County through exclusive timber-supply agreements recorded there, making venue proper in that county under Alabama Code § 6-3-7. The court directed the Alabama Court of Civil Appeals to quash its writs ordering transfer of the case to Butler County.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Main, Justice; Malone, Chief Justice; Stuart, Justice; Parker, Justice; Wise, Justice; Woodall, Justice; Bolin, Justice; Murdock, Justice; Shaw, Justice
JURISDICTION	Alabama
DECIDED	August 19, 2011
DOCKET	1100479; 1100497
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Elliott petitioned the Supreme Court of Alabama for writs of mandamus directing the Court of Civil Appeals to quash writs that had ordered the Conecuh Circuit Court to transfer his workers' compensation action to Butler County.
STANDARD OF REVIEW	The Supreme Court reviews de novo the issuance of a writ of mandamus by the Court of Civil Appeals. Review of an order transferring or refusing to transfer venue requires a clear showing of error by the trial judge, and the party seeking transfer bears the burden of proving that venue is improper.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Alabama.
PARTIES	Jerry Elliott v. International Paper Company, Chapman Forest Products, Inc.

TOPICS

venue

writ of certiorari

appellate procedure

standard of review

civil procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Workers' compensation

QUESTIONS PRESENTED

1. Whether venue for Elliott's workers' compensation action was proper in Conecuh County under Alabama Code § 6-3-7(a)(3), because International Paper or Chapman did business by agent there at the time the action was filed.
2. Whether the Court of Civil Appeals properly issued mandamus directing the Conecuh Circuit Court to transfer the action to Butler County.

HOLDINGS

1. Exclusive 10- and 20-year timber-supply agreements concerning timber harvested in Conecuh County, recorded in the Conecuh Probate Court and serving the companies' principal function of manufacturing plywood, constituted doing business in Conecuh County under Alabama Code § 6-3-7(a)(3).
2. The Court of Civil Appeals should not have issued mandamus directing transfer because International Paper and Chapman failed to show a clear legal right to transfer or a clear error by the Conecuh Circuit Court.

KEY QUOTATIONS

“Mandamus is a drastic and extraordinary writ to be issued only where there is (1) a clear legal right in the petitioner to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; and (4) properly invoked jurisdiction of the court.” (911)

“An exclusive right to buy timber from landowners in order to have an adequate supply to make plywood for 10 and 20 years is clearly part of the “business function” of making wood products and one that would be exercised with “some regularity.”” (914)

FACTUAL BACKGROUND

Elliott lived in Conecuh County and worked for 21 years at a plywood-manufacturing plant located in Butler County, first operated by International Paper and later by Chapman. He allegedly suffered shoulder injuries while working at the plant in 2007 and 2008. International Paper and Chapman had exclusive long-term timber-supply agreements involving timber harvested in Conecuh County, and those agreements were recorded in the Conecuh Probate Court.

PROCEDURAL HISTORY

Elliott filed a workers' compensation action in the Conecuh Circuit Court. International Paper and Chapman moved to dismiss or transfer the case to Butler County based on improper venue; the trial court denied the motions. The Court of Civil Appeals granted the defendants' mandamus petitions and directed transfer to Butler County. The Supreme Court of Alabama granted Elliott's petitions and directed the Court of Civil Appeals to quash its writs.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Court of Civil Appeals was directed to quash the writs of mandamus it issued on December 30, 2010, requiring the Conecuh Circuit Court to transfer the action to Butler County.

CASES CITED

- Ex parte International Paper Co., 80 So. 3d 903 (Ala. Civ. App. 2010)
- Ex parte Sears, Roebuck & Co., 895 So. 2d 265, 268 (Ala. 2004)
- Ex parte Mardis, 628 So. 2d 605, 606 (Ala. 1993)
- Ex parte Ben-Acadia, Ltd., 566 So. 2d 486, 488 (Ala. 1990)
- Ex parte Glover, 801 So. 2d 1, 6 (Ala. 2001)
- Ex parte Consolidated Publ'g Co., 601 So. 2d 423 (Ala. 1992)
- Ex parte Alabama Great Southern R.R., 788 So. 2d 886, 888 (Ala. 2000)
- Ex parte Finance America Corp., 507 So. 2d 458, 460 (Ala. 1987)
- Ex parte Charter Retreat Hosp., 538 So. 2d 787, 789 (Ala. 1989)
- Ex parte Smith Wrecker Serv., Inc., 987 So. 2d 534, 536 (Ala. 2007)
- Ex parte Harrington Mfg. Co., 414 So. 2d 74 (Ala. 1982)
- Ex parte SouthTrust Bank of Tuscaloosa Cnty., N.A., 619 So. 2d 1356, 1358 (Ala. 1993)
- Ex parte Parsons & Whittemore Alabama Pine Construction Corp., 658 So. 2d 414 (Ala. 1995)
- Ex parte Real Estate Financing, Inc., 450 So. 2d 461 (Ala. 1984)
- Ex parte Scott Bridge Co., 834 So. 2d 79 (Ala. 2002)
- Ex parte Greenetrack, Inc., 25 So. 3d 449 (Ala. 2009)