

SUPREME COURT OF ALABAMA

Junkin v. Southeastern Energy Corp.

203 So. 3d 1207 (Ala. 2016) · No. 1150033; 1150294 · Decided April 15, 2016

SUMMARY

The Alabama Supreme Court considered two petitions for writs of mandamus concerning venue in Clatus Junkin’s malicious-prosecution action against Southeastern Energy Corp. The Court concluded that venue was improper in Fayette County and that the trial court had authority to reconsider its venue ruling and transfer the case to Lowndes County. It dismissed the first petition as moot and denied the second petition.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Justice; Parker, Justice; Main, Justice; Shaw, Justice; Moore, Chief Justice; Wise, Justice
JURISDICTION	Alabama
DECIDED	April 15, 2016
DOCKET	1150033; 1150294
DISPOSITION	other
PROCEDURAL POSTURE	Southeastern Energy petitioned for writs of mandamus challenging the Fayette Circuit Court's venue rulings in Junkin's malicious-prosecution action.
STANDARD OF REVIEW	Mandamus is available to review the denial or grant of a motion for change of venue, but relief requires a clear legal right, an imperative duty, no other adequate remedy, and properly invoked jurisdiction. The petitioner bears the burden of proving improper venue, and mandamus will not issue absent a clear showing of trial-court error.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	Southeastern Energy Corp. v. Clatus Junkin

TOPICS

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QUESTIONS PRESENTED

1. Whether the Fayette Circuit Court erred by initially denying Southeastern Energy's motion to transfer Junkin's malicious-prosecution action from Fayette County.
2. Whether the Fayette Circuit Court retained jurisdiction to reconsider its venue ruling and transfer the action to Lowndes County while Southeastern Energy's first mandamus petition was pending.
3. Whether Southeastern Energy had a clear legal right to vacatur of the order transferring the action to Lowndes County.

HOLDINGS

1. The first mandamus petition was moot because the Fayette Circuit Court had jurisdiction to reconsider its prior venue ruling and had already transferred the action to a proper venue.
2. Venue was not proper in Fayette County, and the transfer to Lowndes County was proper because a substantial part of the events or omissions giving rise to the malicious-prosecution claim occurred there.
3. Southeastern Energy did not establish a clear legal right to vacatur of the transfer order, so its second mandamus petition was denied.

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.” (1210)

“The filing of a petition for a writ of mandamus against a trial judge does not divest the trial court of jurisdiction, stay the case, or toll the running of any period for obeying an order or perfecting a filing in the case.” (1212)

FACTUAL BACKGROUND

Southeastern Energy supplied diesel fuel to Johnco Materials's sand and gravel operation in Lowndes County, Alabama, but was not paid. Southeastern Energy sued Johnco Materials and its owner, Clatus Junkin, in Lowndes County; Johnco consented to a money judgment, and Junkin was dismissed with prejudice. Junkin then sued Southeastern Energy for malicious prosecution in Fayette County, although the underlying fuel transactions and litigation occurred in Lowndes or Montgomery County and Southeastern Energy submitted evidence that it did not do business in Fayette County.

PROCEDURAL HISTORY

Southeastern Energy originally sued Johnco Materials, Inc., and Clatus Junkin in Lowndes County to collect unpaid diesel-fuel charges. After Johnco consented to judgment and Junkin was dismissed with prejudice, Junkin

filed a malicious-prosecution action against Southeastern Energy in Fayette County. Southeastern Energy moved to dismiss or transfer venue; the Fayette Circuit Court initially denied the motion, later reconsidered it, and transferred the case to Lowndes County. The Alabama Supreme Court dismissed the first mandamus petition as moot and denied the second petition.

DISPOSITION

other

CASES CITED

- Ex parte Alabama Great Southern R.R., 788 So. 2d 886, 888 (Ala. 2000)
- Ex parte Integon Corp., 672 So. 2d 497, 499 (Ala. 1995)
- Ex parte Finance America Corp., 507 So. 2d 458, 460 (Ala. 1987)
- Ex parte Pike Fabrication, Inc., 859 So. 2d 1089, 1091-92 (Ala. 2002)
- Ex parte Pratt, 815 So. 2d 532, 534 (Ala. 2001)
- Ex parte Overstreet, 748 So. 2d 194, 196 (Ala. 1999)
- Ex parte D.M. White Constr. Co., 806 So. 2d 370, 372 (Ala. 2001)
- Ex parte Citizens State Bank, 989 So. 2d 507, 508 (Ala. 2008)
- State v. Webber, 892 So. 2d 869, 871 (Ala. 2004)