

SUPREME COURT OF MISSISSIPPI

Wilner v. White

929 So. 2d 315 (Miss. 2006) · No. No. 2003-CT-01733-SCT · Decided May 18, 2006

SUMMARY

The Mississippi Supreme Court held that an amended complaint adding previously identified defendants did not relate back to the original complaint under Mississippi Rule of Civil Procedure 15(c). Because the plaintiff filed the motion to amend before the statute of limitations expired but the court did not grant leave until afterward, the claims against the added defendants were time-barred. The court reversed the Court of Appeals and reinstated the circuit court's summary judgment for the defendants.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Carlson, Justice; Smith, C.J.; Waller, P.J.; Cobb, P.J.; Carlson, J.; Dickinson, J.; Randolph, J.; Easley, J.; Graves, J.; Diaz, J. (not participating)
JURISDICTION	Mississippi
DECIDED	May 18, 2006
DOCKET	No. 2003-CT-01733-SCT
DISPOSITION	reversed
PROCEDURAL POSTURE	On writ of certiorari to review the Mississippi Court of Appeals' reversal of the circuit court's grant of summary judgment in favor of the newly added defendants in a medical-malpractice action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court examines all evidentiary matters, views the evidence in the light most favorable to the nonmoving party, and affirms when no genuine issue of material fact exists and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court en banc opinion; precedential.
PARTIES	Iris M. Wilner v. M. Neil White, M.D., Gulf Coast OB/Gyn, P.A.

TOPICS

- statute of limitations
- motion to amend
- summary judgment
- civil procedure
- appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

medical malpractice

statute of limitations

QUESTIONS PRESENTED

1. Whether an amended complaint filed without prior leave of court may be treated as an original complaint as to newly added defendants.
2. Whether the amended complaint adding White and Gulf Coast OB/GYN related back to the original complaint under Mississippi Rule of Civil Procedure 15(c).
3. Whether filing a motion for leave to amend before expiration of the statute of limitations tolls the limitations period until the court rules on the motion.
4. Whether the circuit court properly granted summary judgment because the claims against the newly added defendants were time-barred.

HOLDINGS

1. An amended complaint filed after an original complaint cannot be treated as an original complaint merely because it was filed before the statute of limitations expired; leave of court or written consent of the adverse party is required when Rule 15(a) applies.
2. The amended complaint did not relate back to the original complaint because, although the claims arose from the same occurrence and White had timely notice, Wilner failed to show a mistake concerning White's identity and failed to exercise reasonable diligence in naming him.
3. Filing a motion for leave to amend before the statute of limitations expires does not toll the limitations period until the trial court rules on the motion.
4. Summary judgment for White was proper because the claims against him were barred by the statute of limitations and no legally effective amendment brought him into the action within the limitations period.

KEY QUOTATIONS

“For all the reasons herein discussed, the judgment of the Court of Appeals is reversed, and the final judgment of the Circuit Court of Jackson County is reinstated and affirmed.” (324)

“There was no mistake as to White's identity, and Wilner did not exercise reasonable diligence in adding the newly named defendants.” (324)

FACTUAL BACKGROUND

Wilner underwent a diagnostic laparoscopy performed by Dr. Neil White on January 27, 1997, and later experienced symptoms diagnosed as compression neuropathy. She filed suit on February 12, 1998, naming other defendants and John Does, but did not name White or Gulf Coast OB/GYN. Although White's identity and possible involvement were known before the limitations period expired, Wilner filed an amended complaint adding them on January 27, 1999, without having obtained leave of court. The court concluded that the amended complaint was filed after the applicable two-year limitations period because the motion for leave did not toll the period and the amendment did not relate back.

PROCEDURAL HISTORY

Wilner initially sued Singing River Hospital, a nurse, and fictitious defendants. She later filed an amended complaint adding Dr. White and Gulf Coast OB/GYN without first obtaining leave of court, although she filed a motion for leave the same day. The circuit court denied leave, dismissed the putative amended complaint, and later granted summary judgment to White on statute-of-limitations grounds. The Court of Appeals first reversed the dismissal and directed that the amendment be allowed, then initially affirmed summary judgment, but on rehearing reversed summary judgment. The Supreme Court granted certiorari, reversed the Court of Appeals, and reinstated and affirmed the circuit court's judgment.

DISPOSITION

reversed

CASES CITED

- Satchfield v. R.R. Morrison & Son, Inc., 872 So. 2d 661, 663 (Miss. 2004)
- McMillan v. Rodriguez, 823 So. 2d 1173, 1176-77 (Miss. 2002)
- Lewallen v. Slawson, 822 So. 2d 236, 237-38 (Miss. 2002)
- Jenkins v. Ohio Cas. Ins. Co., 794 So. 2d 228, 232 (Miss. 2001)
- Aetna Cas. & Sur. Co. v. Berry, 669 So. 2d 56, 70 (Miss. 1996)
- American Legion Ladnier Post No. 42 v. Ocean Springs, 562 So. 2d 103, 106 (Miss. 1990)
- Price v. Purdue Pharma Co., 920 So. 2d 479, 483-84 (Miss. 2006)
- Monsanto Co. v. Hall, 912 So. 2d 134, 136 (Miss. 2005)
- Stuckey v. Provident Bank, 912 So. 2d 859, 864 (Miss. 2005)
- Miller v. Meeks, 762 So. 2d 302, 304 (Miss. 2000)
- Brown v. Credit Ctr., Inc., 444 So. 2d 358, 362 (Miss. 1983)
- Wilner v. White, 788 So. 2d 822, 824 (Miss. Ct. App. 2001)
- Curry v. Turner, 832 So. 2d 508, 511, 513-14 (Miss. 2002)
- King v. American RV Centers, Inc., 862 So. 2d 558, 562-63 (Miss. Ct. App. 2003)
- Kimball v. Louisville & Nashville R.R. Co., 94 Miss. 396, 48 So. 230 (1909)
- Harrison v. Chandler-Sampson Ins., Inc., 891 So. 2d 224, 234 (Miss. 2005)
- Alexander v. Elzie, 621 So. 2d 909, 910 (Miss. 1992)
- Wilner v. White, 929 So. 2d 343, 347, 350 (Miss. Ct. App. 2005)
- Doe v. Miss. Blood Servs., Inc., 704 So. 2d 1016, 1018-19 (Miss. 1997)
- Womble v. Singing River Hosp., 618 So. 2d 1252, 1266-68 (Miss. 1993)
- Nguyen v. Mississippi Valley Gas Co., 859 So. 2d 971, 978-79 (Miss. 2003)
- Nelson v. Adams USA, Inc., 529 U.S. 460, 467 n.1, 120 S. Ct. 1579, 146 L. Ed. 2d 530 (2000)
- Brown v. Winn-Dixie Montgomery, Inc., 669 So. 2d 92, 94 (Miss. 1996)

