

SUPREME COURT OF MISSISSIPPI

Crawford v. Morris Transp., Inc.

990 So. 2d 162 (Miss. 2008) · No. Nos. 2006-CA-00185-SCT, 2007-CA-00322-SCT · Decided September 4, 2008

SUMMARY

The Supreme Court of Mississippi considered whether a circuit court properly dismissed two complaints arising from an automobile-accident claim after an earlier proceeding was removed to federal court and dismissed. The court affirmed dismissal of the 2003 complaint as a nullity but reversed dismissal of the 2005 complaint, holding that Mississippi's one-year savings statute applied because the federal dismissal resulted from a procedural defect and the new complaint was timely filed.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, P.J.; Diaz, P.J.; Easley, J.; Carlson, J.; Dickinson, J.; Randolph, J.; Lamar, J.; Graves, J.
JURISDICTION	Mississippi
DECIDED	September 4, 2008
DOCKET	Nos. 2006-CA-00185-SCT, 2007-CA-00322-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Michael Crawford appealed the Coahoma County Circuit Court's dismissal with prejudice of two complaints arising from an automobile accident. The Supreme Court of Mississippi considered separate appellate docket numbers: one concerning the 2003 complaint and one concerning the 2005 complaint filed under the Mississippi savings statute.
STANDARD OF REVIEW	Jurisdictional and statute-of-limitations issues are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Crawford v. Morris Transportation, Inc., Alex Jordan, Custom Sign Company a/k/a Custom Sign Company of Batesville, Inc. f/k/a Custom Sign Company of Grenada, Inc.

TOPICS

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QUESTIONS PRESENTED

1. Whether the 2003 complaint filed in state court after removal, but before remand, was legally effective.
2. Whether Mississippi Code Annotated section 15-1-69 permitted Crawford's separate 2005 complaint, filed within one year of the federal court's dismissal, despite expiration of the ordinary statute of limitations.

HOLDINGS

1. The 2003 complaint was a nullity because, after written notice of removal and before remand, the state court was required to proceed no further; the circuit court therefore properly dismissed it.
2. Mississippi Code Annotated section 15-1-69 applied because the federal dismissal was based on a procedural defect or lack of jurisdiction rather than the merits, and Crawford filed the 2005 complaint within one year of that dismissal.
3. The principle of priority jurisdiction did not apply because the federal and state courts were separate sovereigns and the 2003 complaint was not a second, independent action.

KEY QUOTATIONS

"Where the plaintiff has been defeated by some matter not affecting the merits, some defect or informality, which he can remedy or avoid by a new process, the statute shall not prevent him from doing so, provided he follows it promptly, by suit within a year." (174)

"The statute is highly remedial and should be liberally construed to accomplish its purpose." (174)

"Unlike Barnes, the record in this case supports that dismissal was based upon a "matter of form" not affecting the merits namely, a lack of jurisdiction due to the absence of a complaint." (174)

FACTUAL BACKGROUND

On July 14, 2001, Michael Crawford's vehicle struck the rear of an eighteen-wheeler driven by Alex Jordan, who had stopped because he was unsure whether the truck would clear an underpass. Crawford anticipated claims against Jordan and Morris Transportation and sought pre-suit discovery to identify a possible local defendant responsible for a sign near the underpass. After removal to federal court and the later dismissal of the removed matter, Crawford filed a separate complaint in Mississippi state court on July 14, 2005, within one year of the federal dismissal and after the ordinary three-year limitations period had expired.

PROCEDURAL HISTORY

Crawford initially filed a Mississippi Rule of Civil Procedure 27 petition to perpetuate testimony in circuit court. The defendants removed the matter to federal court before a complaint had been filed; Crawford later filed a complaint in federal court and a copy in state court. The federal court dismissed the removed matter without prejudice, concluding that the pre-suit petition was not a removable civil action. The circuit court dismissed both the 2003 state-court complaint and the separate 2005 complaint, and the Mississippi Supreme Court affirmed as to the 2003 complaint but reversed and remanded as to the 2005 complaint.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The dismissal of the 2005 complaint was reversed, and the matter was remanded for further proceedings. The dismissal of the 2003 complaint was affirmed.

CASES CITED

- Rayner v. Raytheon Co., 858 So. 2d 132, 133 (Miss. 2003)
- Sorrells v. R & R Custom Coach Works, Inc., 636 So. 2d 668, 670 (Miss. 1994)
- Stephens v. Equitable Life Assurance Soc'y of the United States, 850 So. 2d 78, 82 (Miss. 2003)
- ABC Mfg. Corp. v. Doyle, 749 So. 2d 43, 45 (Miss. 1999)
- Miss. Power Co. v. Luter, 336 So. 2d 753, 755 (Miss. 1976)
- Huffman v. Griffin, 337 So. 2d 715, 719 (Miss. 1976)
- Lee v. Lee, 232 So. 2d 370, 373 (Miss. 1970)
- Scruggs, Millette, Bozeman & Dent, P.A. v. Merkel & Cocke, P.A., 804 So. 2d 1000, 1006 (Miss. 2001)
- In re Petition of Beggiani, 519 So. 2d 1208, 1210 (Miss. 1988)
- Streckfus Steamers, Inc. v. Kiersky, 174 Miss. 125, 163 So. 830, 835 (1935)
- W.T. Raleigh Co. v. Barnes, 143 Miss. 597, 109 So. 8, 9 (1926)
- Marshall v. Kan. City S. Rys. Co., 2007 WL 3257011, at **3-5 (Miss. Ct. App. Nov. 6, 2007)
- Frederick Smith Enter. Co. v. Lucas, 204 Miss. 43, 36 So. 2d 812, 814 (1948)
- Smith v. Copiah County, 232 Miss. 838, 100 So. 2d 614, 615-16 (1958)
- Am. Bankers Ins. Co. v. Booth, 830 So. 2d 1205, 1214 (Miss. 2002)
- Arnona v. Smith, 749 So. 2d 63, 66 (Miss. 1999)
- Int'l Primate Prot. League v. Adm'rs of Tulane Educ. Fund, 500 U.S. 72, 89 (1991)
- Maine Ass'n of Interdependent Neighborhoods v. Comm'r, Maine Dep't of Human Servs., 876 F.2d 1051, 1054 (1st Cir. 1989)
- Nat'l Union Fire Ins. Co. v. Willis, 296 F.3d 336, 341-42 (5th Cir. 2002)
- Weichman v. Northeast Inns of Meridian, Inc., 125 F.R.D. 139, 141 (S.D. Miss. 1989)
- Ayres v. Wiswall, 112 U.S. 187, 5 S. Ct. 90, 28 L. Ed. 693 (1884)
- Laguna Vill. v. Laborers' Int'l Union of N. Am., 35 Cal. 3d 174, 197 Cal. Rptr. 99, 672 P.2d 882, 885 (1983)

