

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Department of Transportation v. Cedars Group, LLC

320 P.3d 23 (Okla. 2013) · Decided November 26, 2013

SUMMARY

The Oklahoma Supreme Court held that the three-day mailing rule under 12 O.S. § 2006(D) applies to post-trial motions for costs and attorney fees filed in the district court. Because the defendants received the judgment by mail within three days of filing, they had 33 days from the judgment's filing date to submit their motions. The court vacated the Court of Civil Appeals' opinion, reversed the trial court, and remanded for a hearing on the motions.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Edmondson, J.; Colbert, C.J.; Reif, V.C.J.; Kauger, J.; Gurich, J.; Watt, J.; Winchester, J.; Taylor, J.; Combs, J.
JURISDICTION	Oklahoma
DECIDED	November 26, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants sought review by writ of certiorari after the Court of Civil Appeals affirmed the trial court's order striking their post-trial motions for costs and attorney fees as untimely.
STANDARD OF REVIEW	The opinion applies de novo review to the interpretation and application of statutes governing the time for filing post-trial motions for costs and attorney fees.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential
PARTIES	Cedars Group, LLC, Centoma, Bush Ltd. d/b/a Deer Creek Texaco, A. Sam Coury v. State ex rel. Oklahoma Department of Transportation

TOPICS

[appellate procedure](#) [attorney fees](#) [costs](#) [statutory interpretation](#) [civil procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the three-day mailing rule in 12 O.S. § 2006(D) applies to post-trial motions for costs and attorney fees filed in the district court after service of the judgment by mail.
2. Whether defendants' receipt of actual notice of the filed judgment within three days, despite the absence of a filed certificate of service, triggered the thirty-day period for filing motions for costs and attorney fees from the judgment's filing date.

HOLDINGS

1. The three-day mailing rule of 12 O.S. § 2006(D) applies when a party is required to file a post-trial motion for costs and attorney fees after being served with the judgment by mail.
2. When actual notice of the filed judgment is undisputedly received within three days after filing, the thirty-day period for filing motions for costs and attorney fees begins on the judgment's filing date; the mailing rule then adds three additional days.

KEY QUOTATIONS

“The defendants' receipt of actual notice within three days triggered the time period for filing the motions for costs and attorney fees from the date the judgment was filed.” (26)

“The defendants' motions for costs and attorney fees were timely filed, so we do not address other issues raised.” (26)

FACTUAL BACKGROUND

The defendants prevailed in a condemnation action, obtaining a jury award at least ten percent greater than the commissioners' award, making attorney fees and costs recoverable. The judgment was filed on April 18, 2011, and counsel for the Oklahoma Department of Transportation mailed defendants a file-stamped copy that defendants received on April 21, within three days of filing. Defendants filed their motions for costs and attorney fees on May 20, within thirty-three days after the judgment was filed.

PROCEDURAL HISTORY

A jury returned a verdict for the defendants in a condemnation action on February 17, 2011. The judgment was filed on April 18, 2011, and a file-stamped copy was mailed to defendants, who received it on April 21. Defendants filed motions for costs and attorney fees on May 20, but the trial court struck them as untimely, the Court of Civil Appeals affirmed, and the Oklahoma Supreme Court granted certiorari.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must conduct a hearing on the defendants' motions for costs and attorney fees.

CASES CITED

- Tidemark Exploration, Inc. v. Good, 1998 OK 67, 967 P.2d 1194
- Whitehall Homeowners Association, Inc. v. Appletree Enterprise, Inc., 2012 OK 34, 277 P.3d 1266
- L'ggrke v. Sherman, 2009 OK 80, 223 P.3d 383
- McCullough v. Safeway Stores, Inc., 1981 OK 38, 626 P.2d 1332, 1334

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