

SUPREME COURT OF MISSISSIPPI

T. Jackson Lyons & Associates, P.A. v. Precious T. Martin, Sr. & Associates, PLLC

87 So. 3d 444 (Miss. 2012) · Decided April 12, 2012

SUMMARY

The Mississippi Supreme Court considered whether a circuit court had jurisdiction over an appeal from county court and whether attorney's fees were properly awarded. The Court held that payment of the record-preparation costs satisfied the statutory cost-bond requirement and that a supersedeas bond was not jurisdictional. It further held that the parties' ongoing oral arrangement for legal services constituted an open account and supported the award of reasonable attorney's fees.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Carlson, Presiding Justice; Carlson; Dickinson; Randolph; Lamar; Kitchens; Chandler; Pierce; King
JURISDICTION	Mississippi
DECIDED	April 12, 2012
DISPOSITION	reversed
PROCEDURAL POSTURE	Lyons appealed to the Mississippi Supreme Court from the circuit court's reversal of a county court judgment awarding Lyons damages and attorney's fees on an open-account claim.
STANDARD OF REVIEW	Jurisdictional issues are reviewed de novo. Factual determinations by a judge sitting without a jury are reviewed under the substantial-evidence standard, and an attorney-fee award is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	T. Jackson Lyons & Associates, P.A. v. Precious T. Martin, Sr. & Associates, PLLC

TOPICS

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PRACTICE AREAS

Appellate procedure

Civil procedure

Contracts

Attorney fees

Remedies

QUESTIONS PRESENTED

1. Whether the circuit court had appellate jurisdiction over Martin's appeal from the county court after Martin paid the costs of preparing the record but did not properly document a supersedeas bond.
2. Whether the county court properly awarded attorney's fees under Mississippi's open-account statute.

HOLDINGS

1. The circuit court had appellate jurisdiction because Martin timely filed his notice of appeal and satisfied the statutory cost-bond requirement by paying the estimated cost of preparing the record. A supersedeas bond was not required to perfect the appeal or confer appellate jurisdiction because the governing statute did not make a supersedeas bond a prerequisite.
2. The county court properly awarded reasonable attorney's fees because the parties' continuing oral agreement for legal services constituted an open account, and Mississippi Code Section 11-53-81 authorizes reasonable attorney's fees to a prevailing party in an action to collect an open account.

KEY QUOTATIONS

“Thus, a supersedeas bond is not cash, but instead, it is a written guarantee of payment that serves to stay execution of a judgment being appealed.” (at 450)

“A cost bond is jurisdictional and a supersedeas bond is not (unless it is required by statute).” (at 452)

“Suits on open account are always contractual matters, because an underlying contract must exist for the open account to exist.” (at 454)

FACTUAL BACKGROUND

From May 2006 through August 2007, Martin retained Lyons to perform appellate legal work in several cases at an agreed rate of \$100 per hour. Martin paid Lyons's invoices until June 2007, then stopped paying, leaving \$14,543.19 allegedly due. The parties had one oral agreement covering the continuing legal services, and Lyons billed Martin periodically for work performed on the various cases.

PROCEDURAL HISTORY

Lyons sued Martin in the County Court for the First Judicial District of Hinds County for breach of contract and money owed on an open account. After a bench trial, the county court awarded Lyons \$14,543.19 in damages and \$4,847.73 in attorney's fees. Martin appealed to the circuit court, which reversed the attorney-fee award on the ground that the parties' agreement was an oral contract rather than an open account. Lyons then appealed to the Mississippi Supreme Court.

DISPOSITION

reversed

CASES CITED

- Setzer v. State, 54 So. 3d 226, 230 (Miss. 2011)
- Classic Coach, Inc. v. Johnson, 823 So. 2d 517, 520 (Miss. 2002)
- Church of God Pentecostal, Inc. v. Freewill Pentecostal Church of God, Inc., 716 So. 2d 200, 204 (Miss. 1998)
- Tyson Breeders, Inc. v. Harrison, 940 So. 2d 230, 232 (Miss. 2006)
- Mississippi Power & Light Co. v. Cook, 832 So. 2d 474, 486 (Miss. 2002)
- Johnson v. Evans, 517 So. 2d 570, 570-71 (Miss. 1987)
- Williams v. Michael, 319 So. 2d 226, 227 (Miss. 1975)
- Parkman v. Mississippi State Highway Commission, 250 So. 2d 637, 638 (Miss. 1971)
- Allen v. Mayer, 587 So. 2d 255, 261 (Miss. 1991)
- Mississippi State Personnel Board v. Armstrong, 454 So. 2d 912, 915 (Miss. 1984)
- Carney v. Moore, 130 Miss. 658, 94 So. 890, 891 (1923)
- Humphreys v. McFarland, 48 So. 182, 182 (Miss. 1909)
- Phillips Construction Co. Inc. v. Mississippi State Highway Commission, 420 So. 2d 1374, 1375-76 (Miss. 1982)
- Sumner v. City of Como Democratic Executive Committee, 972 So. 2d 616, 619 (Miss. 2008)
- Mauldin Co. v. Lee Tractor Co. of Mississippi, Inc., 920 So. 2d 513, 515-16 (Miss. Ct. App. 2006)
- Westinghouse Credit Corp. v. Moore, McCalib, Inc., 361 So. 2d 990, 992 (Miss. 1978)
- Cox v. Howard, Weil, Labouisse, Friedrichs, Inc., 619 So. 2d 908, 914 (Miss. 1993)
- Fawer v. Evans, 627 So. 2d 829, 833 (Miss. 1993)
- Franklin Collection Service, Inc. v. Stewart, 863 So. 2d 925, 930 (Miss. 2003)
- Wise v. Gulf States Collection Services, 633 So. 2d 1025, 1027 (Miss. 1994)
- McArthur v. Acme Mechanical Contractors, Inc., 336 So. 2d 1306, 1308 (Miss. 1976)
- Hembree v. Johnson, 119 Miss. 204, 80 So. 554 (1919)
- McLain v. West Side Bone & Joint Center, 656 So. 2d 119, 123 (Miss. 1995)
- Stanton & Associates, Inc. v. Bryant Construction Co., Inc., 464 So. 2d 499, 503 (Miss. 1985)
- Richards v. Gulfco Electronics Corp., 360 So. 2d 609, 610 (La. Ct. App. 1978)
- Smith Brothers Trucking of Mount Airy, Inc. v. Baker Truck Brokerage, Inc., 2008 WL 4681641, at *4 (M.D.N.C. Oct. 21, 2008)