

DISTRICT OF COLUMBIA COURT OF APPEALS

District of Columbia v. Fraternal Order of Police Metropolitan Police Labor Committee

33 A.3d 332 (D.C. 2011) · No. 09-CV-255, 09-CV-256, 09-CV-257, 09-CV-737 · Decided December 22, 2011

SUMMARY

The District of Columbia Court of Appeals addresses whether a trial court may consider a Rule 60(b) (6) motion based on changed circumstances while the underlying final order is on appeal. The court holds that the trial court may consider the motion's merits and indicate whether it would grant relief, but may not actually alter the appealed order absent a remand. The court reverses and remands for consideration of the District's motion concerning production obligations in a FOIA dispute.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Blackburne; Ferren; Rigsby; Ruiz
JURISDICTION	District of Columbia
DECIDED	December 22, 2011
DOCKET	09-CV-255, 09-CV-256, 09-CV-257, 09-CV-737
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The District appealed final orders requiring production of documents under the District of Columbia Freedom of Information Act and awarding attorney fees. The District also appealed the trial court's denial of its Superior Court Civil Rule 60(b)(6) motion, and the FOP cross-appealed the attorney-fee order.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	District of Columbia v. Fraternal Order of Police Metropolitan Police Labor Committee

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QUESTIONS PRESENTED

1. Whether a trial court retains authority, while a final order is on appeal, to consider the merits of an appellant's Rule 60(b)(6) motion based on changed circumstances.
2. Whether the trial court may grant Rule 60(b) relief altering the appealed order without a remand from the appellate court.
3. Whether the District was entitled to remand of the Rule 60(b)(6) motion and the underlying FOIA production and attorney-fee orders for further proceedings.

HOLDINGS

1. While a final order is on appeal, the trial court may entertain and consider on the merits a Rule 60(b)(6) motion directed at that order, including arguments based on changed circumstances, even though it may not grant relief that alters the appealed order while appellate jurisdiction remains pending.
2. A trial court may not grant Rule 60(b) relief that directly challenges or alters an order on appeal unless the appellate court first remands the case.

KEY QUOTATIONS

“In sum, without a remand, the District was not entitled to 60(b) relief, but it was entitled to court consideration of the merits of its motion.” (at 337)

“Neither the parties nor the trial court, however, recognized that the court had intermediate authority to entertain the motion pending appeal, without a remand, limited only by the jurisdictional requirement that the actual grant of the announced relief had to await the mandate from this court returning the case to the trial court.” (at 337)

FACTUAL BACKGROUND

The FOP submitted FOIA requests to the Metropolitan Police Department seeking police trial board records and Equal Employment Opportunity investigation files. The Superior Court ordered the District to produce responsive documents, with redactions to protect privacy interests, and awarded attorney fees. During the District's efforts to comply, it asserted changed circumstances concerning the burden, timing, cost, scope, and privacy implications of production and sought relief under Rule 60(b)(6).

PROCEDURAL HISTORY

The Superior Court entered a February 4, 2009 order requiring the District to produce records responsive to two FOIA requests and a separate order awarding attorney fees. While those orders were on appeal, the District moved under Rule 60(b)(6) to amend or clarify the production order based on changed circumstances. The trial court denied the motion because it believed the appeal deprived it of authority to consider the motion, and the District appealed that denial. The Court of Appeals reversed the denial and remanded for consideration of the motion on its merits, while also remanding the underlying production and fee orders.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must reconsider the District's Rule 60(b)(6) motion on the merits as to the privacy-exemption, undue-hardship, and alternative scope, timing, and cost-of-production arguments, considering the changed circumstances and evidence presented. The February 4, 2009 production and attorney-fee orders were also remanded for further proceedings consistent with the opinion, and the interrelated appeals were removed from the appellate court's docket.

CASES CITED

- Smith v. Pollin, 194 F.2d 349 (D.C. Cir. 1952)
- In re M.O.R., 851 A.2d 503 (D.C. 2004)
- Umana v. Swidler & Berlin, Chartered, 745 A.2d 334 (D.C. 2000)
- Carter v. Cathedral Ave. Co-op., Inc., 532 A.2d 681 (D.C. 1987)
- Johnson v. United States, 398 A.2d 354 (D.C. 1979)
- Sampson v. Johnson, 846 A.2d 278 (D.C. 2004)
- In re S.C.M., 653 A.2d 398 (D.C. 1995)
- Piper v. U.S. Department of Justice, 374 F. Supp. 2d 70 (D.D.C. 2005)