SUPREME COURT OF FLORIDA

Carol Ann Jones, etc. v. Edward I. Golden, etc.

Carol Ann Jones, etc. v. Edward I. Golden, etc., 176 So. 3d 242 (Fla. 2015) (Fla. 2015) · No. SC13-2536

SUMMARY

The Florida Supreme Court held that claims of known or reasonably ascertainable creditors of an estate who were not served with a copy of the notice to creditors are timely if filed within two years of the decedent’s death under section 733.710, Florida Statutes, because the limitations period in section 733.702(1) never begins to run absent service. The court approved the Fourth District’s decision in *Golden*, disapproved conflicting decisions from the First and Second Districts, and emphasized that due process requires actual notice to such creditors before their claims can be barred.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Canady; Labarga; Pariente; Lewis; Quince; Polston; Perry
JURISDICTION	Florida
DOCKET	SC13-2536
DISPOSITION	approved
PROCEDURAL POSTURE	Review of a decision of the Fourth District Court of Appeal, which reversed and remanded the probate court's order striking a creditor's claim as untimely.
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	binding
PARTIES	Carol Ann Jones, etc. v. Edward I. Golden, etc.

TOPICS

probate · creditor claims · probate procedure · constitutional law · appellate procedure

PRACTICE AREAS

Probate · Estates and Trusts · Creditors' Rights

QUESTIONS PRESENTED

1. Whether the claim of a known or reasonably ascertainable creditor who is not served with a copy of the notice to creditors is barred under section 733.702(1), Florida Statutes, if not filed within three months after the first publication of the notice to creditors, or whether the claim is timely if filed within two years of the decedent's death under section 733.710, Florida Statutes.

HOLDINGS

1. Claims of known or reasonably ascertainable creditors of an estate who were not served with a copy of the notice to creditors are timely if filed within two years of the decedent's death.

KEY QUOTATIONS

> *"Under the plain language of section 733.702(1), where a known or reasonably ascertainable creditor is never served with a copy of the notice to creditors, the applicable limitations period never begins to run and cannot bar that creditor's claim. '[A]s to any creditor required to be served with a copy of the notice to creditors,' the limitations period can only be triggered by 'service on the creditor' of the required notice."* (at 250)

> *"The interpretation adopted in Golden is in accord with the plain terms of the statute. And it is also in accord with the requirements of due process. In Tulsa Professional Collection Services, Inc. v. Pope, 485 U.S. 478, 489-91 (1988), the United States Supreme Court held that where a creditor is known or reasonably ascertainable, that creditor's claim may not be barred merely by publication of the notice to creditors."* (at 251-52)

FACTUAL BACKGROUND

Harry Jones died in February 2007 and his estate was opened in April 2007. A notice to creditors was published in June 2007, but Harry's ex-wife Katherine Jones (or her guardian) was never served with a copy of the notice. In January 2009, less than two years after Harry's death, Katherine's guardian filed a statement of claim in the probate court based on a marital settlement agreement from 2002.

PROCEDURAL HISTORY

The Fourth District reversed the probate court's order striking the claim, holding that if a known or reasonably ascertainable creditor is never served with a copy of the notice to creditors, the creditor's claim is timely if filed within two years of the decedent's death. The Fourth District certified conflict with decisions of the First and Second Districts.

DISPOSITION

approved

REMAND INSTRUCTIONS

The decision of the Fourth District is approved, and the case is remanded for further proceedings consistent with the opinion.

CASES CITED

- Golden v. Jones, 126 So. 3d 390 (Fla. 4th DCA 2013)
- Morgenthau v. Andzel, 26 So. 3d 628 (Fla. 1st DCA 2009)
- Lubee v. Adams, 77 So. 3d 882 (Fla. 2d DCA 2012)
- In re Estate of Puzzo, 637 So. 2d 26 (Fla. 4th DCA 1994)
- May v. Illinois Nat. Ins. Co., 771 So. 2d 1143 (Fla. 2000)
- Tulsa Professional Collection Services, Inc. v. Pope, 485 U.S. 478 (1988)
- Miller v. Estate of Baer, 837 So. 2d 448 (Fla. 4th DCA 2002)
- BellSouth Telecommunications, Inc. v. Meeks, 863 So. 2d 287 (Fla. 2003)
- Mennonite Bd. of Missions v. Adams, 462 U.S. 791 (1983)

CITED IN

- Carol Ann Jones, etc. v. Edward I. Golden, etc., Jones v. Golden, 176 So. 3d 242 (Fla. 2015)
- Carol Ann Jones, etc. v. Edward I. Golden, etc., Jones v. Golden, 176 So. 3d 242, 248 (Fla. 2015)