

SUPREME COURT OF SOUTH CAROLINA

Law Firm of Paul L. Erickson, P.A. v. Boykin, 383 S.C. 497

681 S.E.2d 575 (2009) · No. No. 26694 · Decided July 27, 2009

SUMMARY

The Supreme Court of South Carolina held that a foreign judgment is constitutionally presumed valid and that the debtor challenging personal jurisdiction bears the burden of overcoming that presumption. The court held that the final sentence of S.C. Code § 15-35-940(B), which placed the burden on the creditor to prove entitlement to full faith and credit, violated the federal Constitution and was severable. The court reversed the Court of Appeals and overruled *The Jay Group, Ltd. v. The Bootery of Haywood Mall, Inc.* to the extent it conflicted with this ruling.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Pleicones; Chief Justice Toal; Justice Waller; Acting Justice Timothy M. Cain; Acting Justice R. Knox McMahon
JURISDICTION	South Carolina
DECIDED	July 27, 2009
DOCKET	No. 26694
DISPOSITION	reversed
PROCEDURAL POSTURE	The petitioner sought enforcement in South Carolina of a North Carolina default judgment. After the circuit court granted the respondents' challenge based on lack of personal jurisdiction and the Court of Appeals affirmed, the Supreme Court of South Carolina granted certiorari.
STANDARD OF REVIEW	De novo review of the legal interpretation of the South Carolina Uniform Enforcement of Foreign Judgments Act and the constitutional allocation of the burden of proof for recognizing a foreign judgment.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Law Firm of Paul L. Erickson, P.A. v. James R. Boykin, Mona S. Boykin

TOPICS

full faith and credit

statutory interpretation

supremacy clause

civil procedure

constitutional law

PRACTICE AREAS

civil procedure

constitutional law

commercial litigation

conflict of laws

QUESTIONS PRESENTED

1. Whether the filing of a motion for relief or notice of defense under S.C. Code Ann. § 15-35-940 shifts to the judgment creditor the burden of proving that a foreign judgment is entitled to full faith and credit.
2. Whether the final sentence of S.C. Code Ann. § 15-35-940(B), which places that burden on the judgment creditor, is constitutional and severable from the remainder of the statute.

HOLDINGS

1. A foreign judgment that appears on its face to be a record of a court of general jurisdiction is entitled to a constitutionally mandated presumption of regularity, and the judgment debtor challenging personal jurisdiction bears the burden of overcoming that presumption by the record or extrinsic evidence.
2. The last sentence of S.C. Code Ann. § 15-35-940(B), which places on the judgment creditor the burden of proving that a foreign judgment is entitled to full faith and credit, violates the federal Constitution.
3. The unconstitutional last sentence of § 15-35-940(B) is severable, leaving the remainder of the statute operative.

KEY QUOTATIONS

“the burden of undermining the decree of a sister state `rests heavily on the assailant'” (504)

“Such a requirement violates the federal constitution, e.g. Cook v. Cook, supra, and accordingly we strike this sentence from § 15-35-940(B).” (505)

FACTUAL BACKGROUND

The petitioner obtained a North Carolina default judgment against the respondents and filed a properly authenticated copy with the Horry County Clerk of Court, together with the required affidavit and notice. The respondents sought relief from enforcement, asserting that the North Carolina court lacked personal jurisdiction. At the circuit-court hearing, the respondents presented no evidence and relied on counsel's argument, while the court declined to admit the parties' fee agreement offered by the petitioner to establish jurisdiction.

PROCEDURAL HISTORY

The petitioner filed an authenticated North Carolina judgment and affidavit with the Horry County Clerk of Court under South Carolina's Uniform Enforcement of Foreign Judgments Act and served the respondents. The circuit court upheld the respondents' challenge to enforcement, concluding that the petitioner had not established personal jurisdiction; the Court of Appeals affirmed. The Supreme Court granted certiorari on the issue of which party bore the burden of establishing the foreign judgment's validity.

DISPOSITION

reversed

CASES CITED

- Law Firm of Erickson, P.A. v. Boykin, 375 S.C. 204, 651 S.E.2d 606 (Ct. App. 2007)
- Taylor v. Taylor, 229 S.C. 92, 91 S.E.2d 876 (1956)
- Adam v. Saenger, 303 U.S. 59, 58 S. Ct. 454, 82 L. Ed. 649 (1938)
- The Jay Group, Ltd. v. The Bootery of Haywood Mall, Inc., 335 S.C. 114, 515 S.E.2d 542 (Ct. App. 1999)
- Sec. Credit Leasing, Inc. v. Armaly, 339 S.C. 533, 529 S.E.2d 283 (Ct. App. 2000)
- Cook v. Cook, 342 U.S. 126, 72 S. Ct. 157, 96 L. Ed. 146 (1951)
- Sojourner v. Town of St. George, 383 S.C. 171, 679 S.E.2d 182 (2009)
- Joytime Distribs. & Amusement Co. v. State, 338 S.C. 634, 528 S.E.2d 647 (2000)
- PYA/Monarch, Inc. v. Sowell's Meats & Servs., Inc., 327 S.C. 469, 486 S.E.2d 766 (Ct. App. 1997)

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