

SUPREME COURT OF MISSISSIPPI

Williams v. Bell

793 So. 2d 609 (Miss. 2001) · No. No. 1999-IA-00045-SCT · Decided September 6, 2001

SUMMARY

The Supreme Court of Mississippi reviewed an interlocutory order disqualifying the plaintiff's law firm in a premises-liability action. The court held that the defendants failed to establish a substantial relationship between the former and current representations or actual disclosure of confidential information, and further held that the defendants waived the disqualification issue through delay; the order was reversed and remanded.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Banks, Presiding Justice; Pittman, C.J.; Banks, P.J.; McRae, P.J., not participating; Waller, J.; Diaz, J.; Easley, J.; Smith, J.; Mills, J.; Cobb, J.
JURISDICTION	Mississippi
DECIDED	September 6, 2001
DOCKET	No. 1999-IA-00045-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from an order disqualifying the plaintiff's law firm in a premises-liability action.
STANDARD OF REVIEW	The manifest-error standard applies to review of factual findings, and the trial court has broad discretion in ruling on attorney-disqualification motions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Lonnett Williams v. Willie V. Bell, Gene A. Bell, individually and d/b/a Rainbow Properties, John Does 1 through 5, Kevin Wright

TOPICS

- interlocutory appeal
- civil procedure
- appellate procedure
- standard of review
- premises liability

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the defendants established a substantial relationship between the matter handled by Allred at her former firm and Williams's premises-liability litigation.
2. Whether the record established that confidential information concerning the litigation was disclosed to Allred.
3. Whether the defendants waived their right to seek disqualification by delaying the motion after learning of the alleged conflict.

HOLDINGS

1. The defendants failed to establish a substantial relationship between the asset-transfer matter handled by Allred at Boackle's firm and the premises-liability litigation.
2. Because no substantial relationship was established, no presumption of confidential disclosure arose, and the record did not support a finding that confidential information was actually disclosed to Allred.
3. The defendants waived the disqualification issue by failing to move at the earliest practical opportunity after learning of the alleged conflict.

KEY QUOTATIONS

“Because we conclude that there is an insufficient showing that the matter handled by the former firm was substantially related to the litigation here in question and that the record does not support a conclusion that there was in fact disclosure of confidences and further that this issue was waived by the delay in asserting it, we reverse and remand.” (610)

“The client cannot hold the right in reserve for tactical purposes until it would be most helpful to his position. Failure to move for disqualification at the earliest practical opportunity will constitute a waiver.” (613)

FACTUAL BACKGROUND

Williams alleged that a stranger raped her in January 1996 in her apartment at the Seville Apartments, which were owned and operated by Willie and Gene Bell. She sued the Bells for negligent premises maintenance. Before joining Williams's law firm, JoAnn Allred worked for K.F. Boackle's firm, which represented or advised the Bells regarding asset transfers and allegedly the lawsuit. The defendants sought disqualification based on an alleged substantial relationship between Allred's former work and the present litigation and alleged disclosure of confidential information.

PROCEDURAL HISTORY

Williams sued the Bells for damages based on alleged negligent maintenance of the Seville Apartments. The Hinds County Circuit Court granted the defendants' motion to disqualify Williams's counsel, including former Boackle firm employee JoAnn Allred and all members and associates of Langston, Frazer, Sweet & Freese. The

Mississippi Supreme Court granted interlocutory review under Mississippi Rule of Appellate Procedure 5 and reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the circuit court for further proceedings consistent with the opinion.

CASES CITED

- Colson v. Johnson, 764 So. 2d 438, 439-40 (Miss. 2000)
- Quick Change Oil & Lubrication Co. v. County Line Place, Inc., 571 So. 2d 968, 970 (Miss. 1990)
- Pearson v. Singing River Med. Ctr., Inc., 757 F. Supp. 768, 771 (S.D. Miss. 1991)
- Daines v. Alcatel, S.A., 194 F.R.D. 678, 681 (E.D. Wash. 2000)
- Smart Indus. Corp. v. Superior Ct., 179 Ariz. 141, 876 P.2d 1176 (1994)
- Stewart v. Bee-Dee Neon & Signs, 751 So. 2d 196, 198 (Fla. App. 1st Dist. 2000)
- Zimmerman v. Mahaska Bottling Co., 270 Kan. 810, 19 P.3d 784, 790-91 (2001)
- Duncan v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 646 F.2d 1020, 1027 (5th Cir. 1981)
- Spragins v. Huber Farm Serv., Inc., 542 F. Supp. 166, 171 (N.D. Miss. 1982)
- Wilbourn v. Stennett, Wilkinson & Ward, 687 So. 2d 1205, 1217 (Miss. 1996)