

SUPREME COURT OF MISSISSIPPI

Cellular South, Inc. v. BellSouth Telecommunications, LLC

214 So. 3d 208 (Miss. 2017) · No. No. 2016-CA-00034-SCT · Decided March 2, 2017

SUMMARY

The Mississippi Supreme Court considered whether 2015 amendments to the Mississippi Public Records Act removed the protected status of a BellSouth proposal and telecommunications contract with the Mississippi Department of Information Technology Services. The court held that the chancery court misconstrued Mississippi Code section 25-61-11 and that the amended Public Records Act governed the dispute because the relevant rights were created by statute. The court reversed and remanded for the trial court to determine whether the documents fell within the statutory provisions requiring disclosure.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Coleman, Justice; Waller, C.J.; Dickinson, P.J.; Randolph, P.J.; Kitchens, J.; King, J.; Beam, J.; Chamberlin, J.; Maxwell, J.
JURISDICTION	Mississippi
DECIDED	March 2, 2017
DOCKET	No. 2016-CA-00034-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	CellularSouth appealed the Hinds County Chancery Court's denial of its petition to revoke a 2006 protective order that had sealed BellSouth's proposal, contract, related correspondence, and marketing materials from disclosure under the Mississippi Public Records Act.
STANDARD OF REVIEW	De novo review of statutory interpretation and the chancery court's legal conclusions.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court en banc opinion; precedential.
PARTIES	Cellular South, Inc. v. BellSouth Telecommunications, LLC, formerly BellSouth Telecommunications, Inc., and successor by merger to BellSouth MNS, Inc.

TOPICS

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QUESTIONS PRESENTED

1. Whether Mississippi Code Section 25-61-11 preserved the 2006 protective order against the 2015 amendments to the Mississippi Public Records Act.
2. Whether the 2015 amendments governing public-records disclosure applied to the records and rights at issue despite the fact that the contract and protective order predated the amendments.
3. Whether Mississippi Code Section 25-1-100(5) potentially required disclosure of the contract as a contract for personal or professional services.

HOLDINGS

1. Section 25-61-11 does not shield the 2006 protective order from the 2015 amendments to the Public Records Act. The chancery court therefore erred by interpreting Section 25-61-11 to prevent the amendments from affecting the order.
2. Because the rights and remedies at issue were created solely by the Public Records Act, the 2015 amendments must be applied as though the Act had always read as amended, absent an applicable saving clause, a final judgment, or impairment of a vested right.
3. The Supreme Court did not determine whether the particular contract was a contract for personal or professional services under Section 25-1-100(5). That issue was left for the chancery court to decide on remand.

KEY QUOTATIONS

“statutes within an Act should be construed to “harmonize with” one another” (214 So. 3d at 212)

“The rights and remedies at issue here are created solely by the Public Records Act, and we therefore hold that the principle treated in Stone and Hudson controls the issue of retroactive application of the 2015 amendments in the case sub judice.” (214 So. 3d at 215)

“If there is an event to which rights attach in the case sub judice, it is CellularSouth’s public records request for the materials, which occurred after the effective dates of the amendments.” (214 So. 3d at 216)

FACTUAL BACKGROUND

BellSouth submitted an August 2005 proposal to the Mississippi Department of Information Technology Services and entered into a telecommunications products and services agreement with the Department in November 2005. BellSouth obtained a 2006 protective order covering the proposal, contract, related correspondence, and marketing materials. In July 2015, CellularSouth requested production of the proposal and contract after legislative amendments made specified contents of state procurement contracts available under the Public Records Act.

PROCEDURAL HISTORY

BellSouth and BellSouth MNS obtained an ex parte protective order in 2006 in the Hinds County Chancery Court. After 2015 amendments to the Mississippi Public Records Act and Mississippi Code Section 25-1-100, CellularSouth sought to revoke the order and obtain the records. The chancery court denied the petition, concluding that Mississippi Code Section 25-61-11 preserved the protective order against the statutory amendments. The Mississippi Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The chancery court must conduct further proceedings, determine whether the proposal and contract fall within the exception or disclosure provisions of Mississippi Code Sections 25-61-9(7) and 25-1-100(5), and resolve whether the records are subject to production under the Public Records Act as amended.

CASES CITED

- Mississippi Pub. Serv. Comm'n v. Mun. Energy Agency of Miss., 463 So. 2d 1056, 1059 (Miss. 1985)
- Tellus Operating Group, LLC v. Maxwell Energy, Inc., 156 So. 3d 255, 261 (¶ 16) (Miss. 2015)
- City of Tchula v. Miss. Public Serv. Comm'n, 187 So. 3d 597, 599 (¶ 6) (Miss. 2016)
- Wilson v. State, 194 So. 3d 855, 872 (¶ 57) (Miss. 2016)
- Lewis v. Hinds Cty. Circuit Court, 158 So. 3d 1117, 1122 (¶ 13) (Miss. 2015)
- Owens Corning v. Miss. Ins. Guar. Ass'n, 947 So. 2d 944, 946 (¶ 7) (Miss. 2006)
- Boston v. Hartford Accident & Indemnity Co., 822 So. 2d 239, 245 (¶ 21) (Miss. 2002)
- Capital City Insurance Co. v. G.B. "Boots" Smith Corp., 889 So. 2d 505 (Miss. 2004)
- Mladinich v. Kohn, 186 So. 2d 481, 484 (Miss. 1966)
- Brown v. Wilcox, 22 Miss. 127, 129-130 (1850)
- Klaas v. Continental Southern Lines, 225 Miss. 94, 82 So. 2d 705 (1955)
- Stone v. Indep. Linen Serv. Co., 212 Miss. 580, 55 So. 2d 165, 168 (1951)
- Deposit Guaranty Bank and Trust Co. v. Williams, 193 Miss. 432, 9 So. 2d 638, 639 (1942)
- Crow v. Cartledge, 99 Miss. 281, 54 So. 947, 948 (1911)
- Musgrove v. Vicksburg & N. Railroad Co., 50 Miss. 677 (1874)
- Bradstreet Co. v. City of Jackson, 81 Miss. 233, 236, 32 So. 999 (1902)
- Fernandez-Vargas v. Gonzales, 548 U.S. 30, 37-38 (2006)

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