

SUPREME COURT OF IOWA

Brubaker v. Estate of DeLong

700 N.W.2d 323 (Iowa 2005) · No. No. 04-0079 · Decided July 8, 2005

SUMMARY

The Iowa Supreme Court held that Stacy Brubaker failed to timely serve the Estate of Arthur DeLong under Iowa Rule of Civil Procedure 1.302(5). An acceptance of service signed before the estate was opened and before the administrator qualified was invalid, and a later acceptance occurred after the court-ordered service deadline without good cause. The court vacated the court of appeals decision, affirmed the district court’s dismissal, and modified the dismissal to be without prejudice.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Wiggins, Justice
JURISDICTION	Iowa
DECIDED	July 8, 2005
DOCKET	No. 04-0079
DISPOSITION	other
PROCEDURAL POSTURE	The estate moved to dismiss Brubaker's personal-injury action for defective and untimely service of the original notice. The district court dismissed the action. The court of appeals reversed, and the Supreme Court of Iowa granted further review.
STANDARD OF REVIEW	Rulings on motions to dismiss are reviewed for correction of errors at law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Stacy Brubaker v. The Estate of Arthur DeLong

TOPICS

- service of process
- probate procedure
- personal injury
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- probate
- personal injury
- appellate procedure

QUESTIONS PRESENTED

1. Whether service of the original notice was valid when it was accepted before the decedent's estate was opened and before the purported administrator qualified.
2. Whether the plaintiff established good cause for service made beyond the ninety-day period and the court-ordered extensions.
3. Whether the dismissal should be designated as without prejudice.

HOLDINGS

1. Service was invalid because, when the first acceptance of service was obtained, DeLong's estate had not been opened and Roth had not qualified as the estate's administrator.
2. Brubaker failed to demonstrate good cause for serving the original notice after the ninety-day period and beyond the court-ordered extensions; dismissal was therefore required under Iowa Rule of Civil Procedure 1.302(5).
3. The dismissal must be modified to specify that it is without prejudice.

KEY QUOTATIONS

"A decedent does not have the capacity to be sued." (at 326)

"good cause" or adequate justification for a delay in service requires that "[t]he plaintiff must have taken some affirmative action to effectuate service of process upon the defendant or have been prohibited, through no fault of his [or her] own, from taking such an affirmative action." (at 327)

FACTUAL BACKGROUND

Stacy Brubaker and Arthur DeLong were involved in an automobile accident on April 11, 2001, and DeLong later died. Brubaker filed a personal-injury petition on December 19, 2002, but did not obtain service within ninety days and received five court-ordered extensions. Her first acceptance of service was obtained before DeLong's estate was opened and before the purported administrator qualified, while the second acceptance was obtained after the final service deadline had expired.

PROCEDURAL HISTORY

Brubaker filed a petition seeking damages from an automobile accident and failed to serve the defendant within the prescribed ninety days. The district court granted five extensions, but Brubaker's first acceptance of service was signed before DeLong's estate was opened and before Roth qualified as administrator; a second acceptance was obtained after the final extension expired. The district court dismissed the action, the court of appeals reversed, and the Supreme Court of Iowa vacated the court of appeals decision, affirmed the district court, and modified the dismissal to be without prejudice.

DISPOSITION

other

CASES CITED

- Rees v. City of Shenandoah, 682 N.W.2d 77, 78 (Iowa 2004)
- Carroll v. Martir, 610 N.W.2d 850, 856 (Iowa 2000)
- Jacobson v. Union Story Trust & Sav. Bank, 338 N.W.2d 161, 163 (Iowa 1983)
- Meier v. Senecaut, 641 N.W.2d 532, 542 (Iowa 2002)
- Henry v. Shober, 566 N.W.2d 190, 192-93 (Iowa 1997)
- Vincent v. Reynolds Mem'l Hosp., Inc., 141 F.R.D. 436, 437 (N.D.W. Va. 1992)
- Metz v. Amoco Oil Co., 581 N.W.2d 597, 599 (Iowa 1998)

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